



# Wall Street Tax Association Fall Seminar

Federal/Financial Products Panel  
November 18, 2013



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## Federal/Financial Products Panel

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*Panelists:*

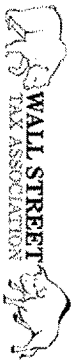
- Karl Walli, United States Treasury
- Clarissa Potter, AIG
- David Garlock, Ernst & Young
- Jim Peaslee, Cleary Gottlieb

*Moderator:* Ed Park, AIG



***All views expressed in this panel are the views of the individual panelists and do not necessarily represent the views of any of the panelists' respective organizations.***

## Identified Mixed Straddles



## Identified Mixed Straddle

### Section 1092

- Section 1092 limits recognition of losses on “straddles” -- offsetting positions in personal property.
- Special rules match gains and losses on mixed straddles where one or more position includes a sec. 1256 contract. Regulations provide rules to
  - account for short-term/long-term split of capital gain or loss on section 1256 contracts and limitation of recognition of losses on straddles;
  - require identification of offsetting positions and election of provision;
  - Provide that positions held before the straddle is established are deemed sold for fair market value as of the close of the last business day preceding the day the straddle is established.



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## Identified Mixed Straddle Regulatory History

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- Regulations were proposed in 1985, after identified mixed straddle rules were added to Code in 1984.
- 1984 legislative history specifies gain or loss recognition at legging in to straddle.
  - “[T]he regulations will require the pre-straddle gains and losses accrued at the time the mixed straddle is created to be recognized at such time. Such gain or loss from positions not subject to sec. 1256 will be short-term or long-term, depending on the taxpayer’s holding period when the mixed straddle is created. . . . ”
- 1985 Temporary regulations implemented legislative history.



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## Identified Mixed Straddle New Temporary and Proposed Regulations

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- On August 1, 2013, Treasury issued new sec. 1.1092(b)-6T identified mixed straddle regulations
  - limit gain or loss recognition rules for identified mixed straddles to those established on or before August 1, 2013;
  - provide that built-in gain and loss on a position held prior to establishing a section 1092(b)(2) identified mixed straddle is suspended until it would otherwise be recognized under other provisions of the Code.
- On October 29, 2013, Treasury corrected -6T regulations, making them effective when finalized.



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## Identified Mixed Straddle Questions and Issues

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- Immediate effective date
- Facts of the “problem” transactions
- Gain vs. loss recognition
- Rules limiting electivity of recognition
- Applicability of 7701(o) “codified economic substance” or other doctrines
- Affirmative use of “anti-abuse” rules

## Is “Reasonable Expectation of Exercise” the New Test for Options?



## Options Traditional Test

- Options do not convey current ownership of underlying property (even if the property is unique). They are treated as open transactions because of the uncertainty of exercise.
- Under the traditional test, sufficient uncertainty exists to sustain option treatment unless there is substantial or reasonable certainty of exercise (or sometimes economic compulsion).
  - The traditional test is reflected in regulations under sections 355, 1361 and 1504 (new partnership option regulations are discussed below).
  - Rev. Rul. 82-150 treated a stock option as equivalent to stock ownership (applying substance over form principles) where the strike price was 30% of fair market value.
  - *Federal Home Loan Mortgage Corp. v. Comm'r*, 125 T.C. 248 (2005), recognized an arrangement as a series of options even though 99% of options were exercised because of evidence showing optionality was commercially desirable.
- The traditional test allows fixed price lessee options to purchase leased property if the strike price is not less than the anticipated fair market value and there are not other factors compelling exercise.





## Options

### Recent SILO / LLO Cases

- Three recent SILO/LLO cases, in the course of holding against the taxpayer, call into question (with increasing clarity as the sequence unfolds) the traditional option standard, replacing it with one that looks to reasonable expectations. They consider the effect on the proper characterization of a purchase option held by the property user.
- Wells Fargo & Co. v. United States, No. 2010-5108 (Fed. Cir. 2011)
  - The Federal Circuit upheld the Court of Claim's decision against the taxpayer in a SILO transaction.
- Consolidated Edison Co. of New York v. United States, No. 2012-5040 (Fed Cir. 2013)
  - Federal Circuit overturned a Claims Court ruling upholding a LLO transaction.
- John Hancock Life Insurance Company, et al., 141 T.C. No. 1 (2013)
  - Tax Court held against taxpayer in a LLO transaction.



## Options

### *Wells Fargo & ConEd Adopt Confusing Standard*

- *Wells Fargo*
  - The Court of Claims found the transaction lacked economic substance.
  - On appeal, the Federal Court noted that the critical inquiry for evaluating the options was whether the taxpayer “reasonably expects” a counterparty to exercise its repurchase options.
  - The Federal Circuit upheld the Court of Claim’s finding that the lessees were “virtually certain” to exercise their repurchase options,” and thus the leases were invalid under the substance-over-form doctrine. The references to the “virtually certain” standard creates uncertainty about what the court thought the test was.



## Options

### *Wells Fargo & ConEd Adopt Confusing Standard*

- *ConEd*
  - The Claims Court concluded the LLO transaction offered several advantages to ConEd and therefore had economic substance. The Claims Court also found that there was no justification to ignore the transaction under the substance-over-form doctrine.
  - On review, the Federal Circuit Court, citing *Wells Fargo*, declared that the appropriate test under the substance-over-form doctrine was whether it was reasonably likely that the property user would exercise its purchase option. The Claims Court did not apply the reasonable expectation standard to the facts, so the Federal Circuit Court did its own analysis based on the record. The Court concluded that the property user (EZH) was reasonably likely to exercise the purchase option, so the lease lacked substance.
  - The Federal Claims Court was not persuaded by a Deloitte and Touche opinion that found there was “no economic compulsion” for EZH to exercise the purchase option. The Court did not take issue with the standard Deloitte used, which can be considered inconsistent with the Court’s earlier articulation of the “reasonable expectation” standard. Instead, the Court criticized Deloitte for failing to consider the non-economic reasons EZH might exercise the option, and for using “boilerplate” analysis.



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## Options

### Tax Court Abandons Ambiguity

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- In *John Hancock*, the Tax Court found that the LLO transactions did have economic substance, and then undertook a substance over form analysis.
- Citing *Wells Fargo* and *ConfEd*, the court adopted the “reasonable likelihood standard” for evaluating options.
- The Court found that the lessees were not compelled by regulatory or other legal factors unrelated to price to exercise the option.
- Based on a financial analysis the Court determined that the lessees were reasonably likely to exercise their purchase options, and the transactions were not indicative of a leasehold, but rather reflective of a financing arrangement. The court denied the taxpayer’s claimed rental expense deductions under the substance-over-form doctrine.”
- The Court did not indicate that it was adopting either a new standard or one that would apply on in certain circumstances (e.g., LLOs or structured transactions).
- Even without explicit acknowledgement, the taint of tax avoidance obviously may led to a bending of legal standards. *Cf. Merck & Co. Inc., v. U.S.*, 107 AFTR 2d 2011-2596 (a.k.a., *Schering-Plough*) which treated the floating rate leg of a swap as sufficiently fixed to be a loan in a structured transaction.



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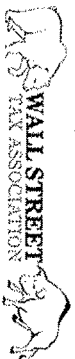
## Options

### Recent Partnership Option Regulations

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- Recent final regulations offer a test for when an option issued by a partnership to acquire partnership equity is treated as equity. (Options can include at the option of the government other contracts such as notional principal contracts and forwards. Regulations apply to DEs that would become partnerships with a second owner.)
- An option is treated as partnership equity if the holder has rights substantially similar to that of a partner.
  - The test is met if the option is “reasonably certain to be exercised” or the option holder has other partner attributes, and
  - Treatment as option would reduce tax liabilities.
- This “reasonably certain” standard is similar to traditional law.
- By restricting equity treatment under the regulations to cases where option treatment would reduce tax liabilities, the IRS is creating a one-sided rule. This implies the provision is more of an anti-abuse measure than a true attempt to appropriately classify options.
- Further, the regulations explicitly preserve the common law test, so that an option that is not recharacterized as equity under the regulations can still be found to be equity under general tax law principles. Thus, if LLO cases have moved the needle, the new test would be applied in addition to the regulations.

## How to Account for Severely Distressed Debt



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## Severely Distressed Debt Example

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- T buys a pool of charged-off credit card loans, i.e., loans that are more than 180 days delinquent.
- T pays 10 percent of the aggregate amount of the loans, including interest and fees owed through the date of the charge-off.
- T expects to collect 15 percent of the loan balance through its collection efforts.
- Legally, assume that interest continues to accrue on the loans at a rate of 24 percent per annum.



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## Severely Distressed Debt Possible Methods of Accounting

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- Full cost recovery method (aka, open transaction accounting) for all payments
  - No income unless and until basis is recovered
  - Treat any excess collections as capital gain
- Accrue at T's expected rate of return (as T did for book purposes)
  - Any excess collections likely would cause a yield adjustment and would result in greater ordinary income
- Accrue the stated interest (but note that 24% of the full principal amount is 240% of the amount invested)
- Accrue on the assumption that the full amount owed will be collected (but over what time period?)





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## Severely Distressed Debt Current Law

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- Open transaction case law has generally applied to principal collections only
- Doubtful collectibility exception (DCE) – interest need not be included in income as accrued if there is no reasonable expectation of collection
- Payment ordering rule – payments on a loan treated first as interest, but no rule on whether oldest or most recent interest is deemed paid first.
- Generally, accruals on a pool of loans must be based on the assumption of no losses, even if future losses are a virtual certainty.



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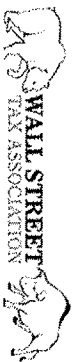
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## Severely Distressed Debt Current Developments

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- *Portfolio Recovery Associates (PRA) v. Comm’r*, Docket No. 25240-11, was docketed in the Tax Court in November 2011, involving essentially this issue.
- Taxpayer followed the full open transaction method.
- IRS argued in its Notice of Deficiency (attached to the Petition) that T was required to follow its books and accrue based on its expected rate of return.
- We have learned that the case is on hold and that the issue is back with the IRS in the Industry Issue Resolution (IIR) program administered by LB&I.
- IRS Chief Counsel (FI&P) has an open reg project to deal with distressed debt, but it does not appear that much progress has been made.

# Debt Hedges, Unfinished Business, and Ethical Dilemmas



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## Debt Hedges Introduction

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- Unfinished regulation projects relating to interest rate or currency hedges of debt instruments (debt held as assets, borrowings, or both).
- Three examples:
  - A regulation in need of an update (1.988-5(a)(5)(iii))
  - A reserved regulation (1.861-9T(b)(6)(v))
  - An unanswered directive in legislative history (901(l))
- Absent guidance, the first two examples are a one-way street favoring the government. They also pose ethical dilemmas (to anticipate changes or not).
- Why does it matter?
  - Character
  - Timing
  - Source
  - Subpart F income



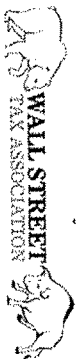
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Debt Hedges: Integration of Related Party Currency Hedges  
Under Reg. § 1.988-5(a)(5)(iii)

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- Currency Hedges: “A qualifying debt instrument and a hedge are an integrated economic transaction if . . . None of the parties to the hedge are related.” §§ 1.988-5(a), -5(a)(5)(iii) (March 17, 1992)
  - Prior temporary regulations included the same rule. (§ 1.988-5T, 1989)
  - A number of commentators (ABA Section of Taxation, American Bankers Association) recommended allowing integration of related party currency hedges.
  - The preamble to the final regulations explains the rejection of these recommendations:
    - “Commentators suggest liberalization of the rule that prohibits hedges with related persons. This suggestion was rejected because the integration rules are intended for transactions that in fact result in a hedged position. A hedge with a related person merely shifts the location for currency risk to that related person[.]” (T.D. 8400, 1992-1 CB 101)
- The rule is a one-way street. The IRS can require integration of related party hedges.



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## Debt Hedges

### Related Parties in Other Regulations

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- Noncurrency Hedges: Reg. § 1.1275-6 allows integration of related party hedges, provided the “party providing the hedge uses . . . a mark to market method of accounting for the hedge and all similar or related transactions.” (June 11, 1996)
  - Treasury and the IRS explained that the 1.1275-6 regulations were “modeled after the integration rules of section 988(d) and 1.988-5(a) [and] have been modified to reflect the different policy concerns.” Treasury and the IRS also noted that they “intend to make conforming changes to 1.988-5(a) and request comments on the extent to which 1.988-5(a) should be modified.” (59 Fed. Reg. 241, December 16, 1994)
    - The proposed 1.1275-6 regulations (1994) only allowed integration of related party hedges if the parties “made a separate entity election under 1.1221-2(d)” (the predecessor to regulation 1.1221-2(e) discussed below).
  - In the final version, 1.1275-6 was broadened to apply to all hedges with related parties on mark to market.
  - Obviously, the policy view that a hedge with a related party is not a hedge changed at least where the related party was on mark to market (and likely was an intermediary to the street).
- In May 1995, the NYSBA Tax Section recommended adoption of a similar related party exception in Reg. § 1.988-5.



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Debt Hedges  
Related Parties in Other Regulations (continued)

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- Hedging Transactions: § 1.1221-2(e) allows a consolidated group to elect separate entity treatment for hedging transactions between group members if the hedge provider is on mark to market. (Adopted under T.D. 8653, January 1, 1996)
  - The preamble to the proposed regulations notes “there is less opportunity for manipulation or distortion if a member of a group enters into a hedging transaction with another member that accounts for the transaction on a mark to market method of accounting for tax purposes.” (59 Fed. Reg. 136, July 18, 1994)
- Why are related party currency hedges different? Given the policy change, some taxpayers take the view that the currency swap regulations have been implicitly amended. Not opinionable perhaps, but wrong? How wrong?
- More unfinished business: integration rules do not apply to debt instruments under section 1272(a)(6) (CPDI rules also do not apply to them).



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Debt Hedges: § 1.861-9T, Allocation & Apportionment of  
Interest Expense – Interest Equivalents

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- The basic rule under Reg. § 1.861-9T treats net expenses from interest rate or currency swaps that hedge borrowings as interest equivalents allocated like interest.
  - One way street favoring interest treatment. But § 1.861-9T(b)(6)(iv) allows a non-financial entity's gains as well as losses to adjust interest expense (hedge gains reduce interest expense).
  - The rule for financial services entities in § 1.861-9T(b)(6)(v) is: "Reserved." (Adopted August 2, 1989, and effective September 14, 1989)
- Preamble on reserved regulation:
  - "Although the Service believes that similar treatment should be accorded to the gains and losses of financial services entities and other taxpayers, paragraph (b)(6)(iii) [the current (b)(6)(v)] reserves on the treatment of financial services entities. The fact that paragraph (b)(6) does so reserve should not be interpreted to mean that the losses of a financial services entity from these transactions do not constitute an interest equivalent under paragraph (b)(1)." (T.D. 8257, 1989-2 CB 118; August 2, 1989)
- Apparently not a significant amount of later commentary. Because taxpayers are able to integrate, don't care or engage in self help? Again, not opinionable but surely sympathetic (particularly when integration not allowed because of related party).





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Debt Hedges  
What does “Reserved” mean?

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- *Connecticut General Life Insurance Corporation v. Commissioner*, 109 T.C. 100 (1997), aff’d, 177 F.3d 136 (3d Cir. 1999):
  - Life and non-life insurance members of an affiliated group can net losses in consolidation provided they have been members of taxpayer’s affiliated group for at least five years.
  - The regulation at issue “reserved” the treatment of losses of acquired groups (whether historically affiliated entities can net as part of a new group). The preamble indicates that the result might be appropriate but required further study.
- Taxpayer argued the reserved regulation gave it license to follow “any reasonable method” when including losses from the acquired companies.
- The courts disagreed. The “reserved” designation could be read to simply set aside space in the regulation without implying a result.



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## Debt Hedges

### Holding Periods Under § 901(l)

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- § 901(k) added in 1997 denies credits with respect to dividends on stock not held for more than 15 days. § 901(k)(5) applies the tolling rules in § 246(c)(4), which exclude from the day count any period in which the taxpayer has options/contracts to sell, or under regulations, reduces its risk of loss by holding positions in substantially similar or related property (SSRP).
- § 901(l), added in 2004, extends the principles of § 901(k) to withholding taxes on other types of income, including interest.
  - § 901(l)(3) grants the Secretary authority to exempt certain types of property from 901(l).
  - § 901(l)(4) states that tolling rules “similar” to the 901(k)(5) tolling rules apply to 901(l).
- Regarding regulations that would “adapt the [901(k)] holding period and hedging rules,” the Conference Report states:
  - “It is anticipated that such regulations will provide that credits are not disallowed merely because a taxpayer eliminates its risk of loss from interest rate or currency fluctuations. In addition, it is intended that such regulations might permit other hedging activities, such as hedging of credit risk, provided that the taxpayer does not hedge most of its risk of loss with respect to the property unless there has been a meaningful and unanticipated change in circumstances.” (H. Rep. 108-755, October 2004)



## Debt Hedges

### Holding Periods Under § 901(l) (continued)

- Notice 2005-90, which mostly deals with exclusions for back-to-back computer program licensing arrangements under § 901(l)(3), requests comments on how regulations could address interest rate and currency risk hedges.
  - No such comments have been published.
- What now? Are regulations needed at all? Could treat legislative history as direction on how to apply “similar” tolling period rules to debt. Is it reasonable to carve out all interest and currency hedges, or just those that would fail an SSRP test?
- Law on spurned delegation
  - For an overview, see Phillip Gall, “Phantom Tax Regulations: The Curse of Spurned Delegations”, 56 *Tax Lawyer* 413 (2003).
  - See also New York State Bar Association Tax Section, “Report on Legislative Grants of Regulatory Authority” (November 3, 2006).

## Lawrence Gail R

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**From:** Rochelle.Hodes@treasury.gov  
**Sent:** Thursday, February 27, 2014 2:13 PM  
**To:** Keyso Jr. Andrew J; Zarlenga Lisa (OTP)  
**Cc:** Fahey Douglas A; Welsh Donna J; Moriarty John P  
**Subject:** Re: Check in on Virtual Currency FAQs

Thanks. We'll get back to you.

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**From:** Keyso Jr. Andrew J [mailto:Andrew.J.KeysoJr@irs.counsel.treas.gov]  
**Sent:** Thursday, February 27, 2014 01:38 PM  
**To:** Hodes, Rochelle; Zarlenga, Lisa  
**Cc:** Fahey, Douglas A; Welsh, Donna J; Moriarty, John P; Keyso Jr., Andrew J  
**Subject:** RE: Check in on Virtual Currency FAQs

Lisa and Rochelle—

We had a lengthy conversation with Erik about the bitcoin notice. These seem to be the remaining concerns:

1.

(b)(5)

2.

(b)(5)

His calendar this afternoon is fairly full, but I'm happy to (b)(5)

try to arrange something today or tomorrow if we need to discuss.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

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**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Thursday, February 27, 2014 11:59 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Zarlenga Lisa (OTP); Fahey Douglas A; Welsh Donna J  
**Subject:** Re: Check in on Virtual Currency FAQs

Yes, that is our view. Please let us know what Erik's thoughts are.

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**From:** Keyso Jr. Andrew J [mailto:Andrew.J.KeysoJr@irs.counsel.treas.gov]  
**Sent:** Thursday, February 27, 2014 10:29 AM  
**To:** Hodes, Rochelle  
**Cc:** Zarlenga, Lisa; Fahey, Douglas A; Welsh, Donna J  
**Subject:** RE: Check in on Virtual Currency FAQs

I hope so. I'm going downstairs with Fahey to talk to Corwin about it at 11am. I assume [REDACTED]

(b)(5)

(b)(5)

[REDACTED] I understand you're out today).

(b)(5)

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

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**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Thursday, February 27, 2014 10:20 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Zarlenga Lisa (OTP); Fahey Douglas A; Welsh Donna J  
**Subject:** Re: Check in on Virtual Currency FAQs

Andy, to get this published early next week, I think that we need the clean doc that you think your building can approve today or tomorrow at the latest. Is that realistic? If not when do you think that we will get that?

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**From:** Bourassa, Elizabeth (Betsy)  
**Sent:** Wednesday, February 26, 2014 01:53 PM  
**To:** Hodes, Rochelle; Fahey, Douglas A; Eldridge, Michelle L.; Keyso Jr., Andrew J; Welsh, Donna J; Zarlenga, Lisa  
**Cc:** Donar, Erin  
**Subject:** RE: Check in on Virtual Currency FAQs

Thanks all – As you hear more on timing and drafts of the release/FAQs, please keep this group posted.

Public Affairs | U.S. Treasury Department | o. 202-622-6490

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**From:** Hodes, Rochelle  
**Sent:** Wednesday, February 26, 2014 1:47 PM  
**To:** Fahey, Douglas A; Bourassa, Elizabeth (Betsy); Eldridge, Michelle L.; Keyso Jr., Andrew J; Welsh, Donna J; Zarlenga, Lisa  
**Cc:** Donar, Erin  
**Subject:** RE: Check in on Virtual Currency FAQs

I am out Thursday and Friday. That may move the release date slightly to the beginning of next week.

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**From:** Fahey Douglas A [mailto:Douglas.A.Fahey@irs.counsel.treas.gov]  
**Sent:** Wednesday, February 26, 2014 1:44 PM

**To:** Bourassa, Elizabeth (Betsy); Eldridge, Michelle L.; Keyso Jr., Andrew J; Welsh, Donna J; Hodes, Rochelle; Zarlenga, Lisa

**Cc:** Donar, Erin

**Subject:** RE: Check in on Virtual Currency FAQs

We are actively working on a couple issues in the notice but are still hopeful that we can release it by the end of this week. In addition, we are reviewing IRS Media Relations' working draft of a news release to accompany release of the notice.

Doug Fahey

**NEW PHONE 202-317-4619**

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**From:** [Elizabeth.Bourassa@treasury.gov](mailto:Elizabeth.Bourassa@treasury.gov) [<mailto:Elizabeth.Bourassa@treasury.gov>]

**Sent:** Wednesday, February 26, 2014 1:38 PM

**To:** Eldridge Michelle L; Keyso Jr. Andrew J; Welsh Donna J; Fahey Douglas A; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); Zarlenga Lisa (OTP)

**Cc:** [Erin.Donar@treasury.gov](mailto:Erin.Donar@treasury.gov)

**Subject:** Check in on Virtual Currency FAQs

All,

We wanted to make sure the both IRS and Treasury policy/press contacts are looped in on the virtual currency FAQs. I realize that IRS is likely tied up with the hearings today, but when you have the chance to do so, can you please update us on timing and any related content?

Attached is the latest draft that Treasury has of the FAQs.

Thanks,

Betsy

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## Lawrence Gail R

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**From:** Welsh Donna J  
**Sent:** Thursday, February 27, 2014 1:56 PM  
**To:** Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P  
**Subject:** RE: For your review: Draft email to Lisa

Looks good. Pls replace

(b)(5)

I don't think we want to say that we will be sending a revised draft shortly with Erik's changes, right?

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**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, February 27, 2014 1:03 PM  
**To:** Fahey Douglas A; Welsh Donna J; Moriarty John P  
**Subject:** For your review: Draft email to Lisa  
**Importance:** High

Let me know if I missed anything in this draft email, or if you would say anything differently. Thanks.

<< Message: RE: Check in on Virtual Currency FAQs >>

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

## Griffin Adrienne E

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**From:** Ronk Alice L <Alice.L.Ronk@irs.gov>  
**Sent:** Monday, July 01, 2013 8:07 AM  
**To:** Powell-Stringer Portia E; Larsen Eric R; Berman Samuel; Fahey Douglas A; Welsh Donna J; Pflanz Shareen S; Shelburne Anne P; Osborne Martin L; Rotunno Norma C; Griffin Adrienne E; Hall Charles A; Jensen Steven D; Erwin Mark E; Baumgarten Peter J; Blanchard William E; Munroe David  
**Cc:** Ronk Alice L; Flack Rosemary; Cavanaugh Kimberly A  
**Subject:** FW: virtual currencies GAO recommendation :

Hi all,  
I've taken a stab at an action plan and timelines. Please provide any comments or suggested changes at your earliest convenience. Also, as I mentioned in our prior call, TAS has raised the bitcoin issue again. I've excerpted the write-up from the TAS report. It is assigned to Eric LoPresti in TAS. I've also included Portia Powell-Stringer (SB/SE Communications) to assist on the Communications issues.

Thanks, in advance, for your help.

-Alice

- Draft Questions and Examples that should be addressed/sent to counsel: July 15, 2013 (3 weeks) (Eric and Alice? draft questions;

Counsel will provide answers to questions)

- Draft Overview and other items needed for Web page July 29, 2013 (2 weeks) (Eric and Alice draft verbiage/Communications can provide suggestions and changes to Web page)
- Review and approval process of answers to questions and web page information begins: August 15, 2013 (1 month from 7/15 date questions provided to counsel) (Chief Counsel, ITA?)
- Target Completion Date: October 15, 2013 (2 months for Counsel work and to review web-page materials)
- Target Closing on GTI database: January 15, 2014

Here is what Eric LoPresti stated during the call (per the TAS minutes):

### Bitcoins – Eric LoPresti

(b)(5)



**To:** Ronk Alice L

**Cc:** Fahey Douglas A; Wilson Brenda D (NO)

**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Hi Alice, You should also include Anne Shelburne (CC:INTL), William Blanchard (CC:FIP), and perhaps Lynne Camillo (CC:TEGE). TSS4510 should have opened up assistances to PA and FIP on this. I will ask that assistances be opened for INTL and TEGE.

Looking at the detail of the questions and the coordination needed among the Associate Offices and the high level of approval required, it may well take all of the 3 mths.

Feel free to call to discuss.

Donna Welsh  
Senior Technician Reviewer  
Income Tax and Accounting, Branch 4  
202-622-7547  
Room 4241(window)

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**From:** Ronk Alice L [mailto:Alice.L.Ronk@irs.gov]

**Sent:** Wednesday, July 17, 2013 10:14 AM

**To:** Berman Samuel; Welsh Donna J

**Cc:** Harvin Betty A; Wilson Brenda D (NO); Baumgarten Peter J; Pinsky Ronald D; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L; TSS4510; Ronk Alice L

**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Hi all,

My understanding is

(b)(5)

(b)(5)

Thanks.

(b)(5)

Thanks for your help!

-Alice

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**From:** Berman Samuel [mailto:Samuel.Berman@irsounsel.treas.gov]  
**Sent:** Tuesday, July 16, 2013 3:22 PM  
**To:** Welsh Donna J  
**Cc:** Harvin Betty A; Wilson Brenda D (NO); Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L; TSS4510  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Donna,

Thanks for your help. Can you give an estimate of the time frame for responding?

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Welsh Donna J  
**Sent:** Tuesday, July 16, 2013 3:11 PM  
**To:** TSS4510; Berman Samuel  
**Cc:** Harvin Betty A; Wilson Brenda D (NO); Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

This should not have a due date; it may take awhile before the informal guidance is issued.

---

**From:** TSS4510  
**Sent:** Tuesday, July 16, 2013 2:49 PM  
**To:** Berman Samuel  
**Cc:** Welsh Donna J; Harvin Betty A; Wilson Brenda D (NO); Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L; TSS4510  
**Subject:** FW: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

I have assigned this as a Published Guidance project to CC:ITA. The case number is **PUBWE-131431-13**. Please advise of CASE-MIS any due date.

**This assignment is being uploaded to the ITA Share Point website.**

Kelly D. Bell  
Management Analyst  
CC:PA:LPD:TSS | Procedure and Administration  
Technical Support Services Branch | TSS4510  
(202) 622-0392 (Office)  
Please send requests for National Office Assignments to TSS4510.  
Thank you!

---

**From:** Berman Samuel  
**Sent:** Tuesday, July 16, 2013 12:03 PM  
**To:** TSS4510  
**Cc:** Welsh Donna J; Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L  
**Subject:** Request for Guidance on Transactions Involving Virtual Currencies

**Griffin Adrienne E**

---

**From:** Hall Charles A  
**Sent:** Thursday, August 22, 2013 11:13 AM  
**To:** Griffin Adrienne E  
**Cc:** Prasad Girish; Cottrell Mark E  
**Subject:** RE: Virtual Currency--Written responses

I have no changes to the substance of your answer, however, for 2B and 8 I think [REDACTED] (b)(5)

[REDACTED] (b)(5)  
For question 9, should we include [REDACTED] Let (b)(5)  
me know if you would like to discuss. Otherwise, please make any changes and go ahead and provide to Donna. Thanks.

Thanks for providing the link to the Washington Post article. I agree [REDACTED] (b)(5)

[REDACTED] (b)(5)  
Finally, I was amazed reading some of the comments to the article. I guess [REDACTED] (b)(5)

[REDACTED] (b)(5)

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 622-7269

---

**From:** Griffin Adrienne E  
**Sent:** Tuesday, August 20, 2013 12:07 PM  
**To:** Hall Charles A  
**Cc:** Prasad Girish; Cottrell Mark E  
**Subject:** FW: Virtual Currency--Written responses

Hi Chuck (and Mark),

Girish and I have worked up the attached written responses to the information reporting questions from the virtual currency/bitcoin document the Service drafted.

(b)(5)

Please let us know if you would like to discuss our draft –

Thanks.

<< File: Bitcoin Responses.docx >>

**Adrienne Griffin**

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

---

**From:** Welsh Donna J

**Sent:** Tuesday, August 20, 2013 11:08 AM

**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T

**Cc:** Fahey Douglas A; Aqui Keith A; Welsh Donna J

**Subject:** RE: Virtual Currency--Written responses

Hi everyone,

You will recall that I requested any written responses that you could provide to the IRS Q&As by 8/13 so that I could compile them into one document for circulation to the working group by today, 8/20. So far I have not received any responses. Please send me your responses as soon as you can, but no later than this Friday. I will combine the responses into one document that we can use to brief the our Associates after the working group agrees to the draft. We really need to keep this moving in order to meet the IRS commentment to GAO.

Thank you.

## Griffin Adrienne E

---

**From:** Griffin Adrienne E  
**Sent:** Thursday, August 22, 2013 1:36 PM  
**To:** Welsh Donna J  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E  
**Subject:** Virtual Currency written responses

Tracking:	Recipient	Read
	Welsh Donna J	Read: 8/22/2013 1:37 PM
	Prasad Girish	Read: 8/22/2013 1:37 PM
	Hall Charles A	Read: 8/22/2013 1:46 PM
	Cottrell Mark E	Read: 8/28/2013 10:35 AM

Donna,

Please find attached P&A's draft written responses to the information reporting questions from the virtual currency/bitcoin document the Service drafted.

(b)(5)

If you have any questions or would like to discuss this draft, please let us know.

Thanks,  
Adrienne



Bitcoin Responses  
Draft 082220...

**Adrienne Griffin**

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

Please assign to Income Tax and Accounting as the primary office, with assistance to be provided, as needed, by Procedure and Administration, International and Financial Institutions and Products.

This is a request for assistance in drafting informal guidance, based on existing guidance, on transactions involving virtual currencies. Initially, the guidance is likely to be in the form of a posting of a series of questions and answers on irs.gov. Attached is a list of questions with respect to virtual currency transactions. We request assistance in drafting answers to these questions that would be helpful to average taxpayers in understanding their tax reporting obligations with respect to such transactions. References to existing publications and published guidance would be helpful. The goal is to provide general guidance that would meet the needs of most taxpayers who engage in virtual currency transactions, especially when they exchange virtual currencies for cash or for goods or services. Please inform us if any of the questions cannot be answered based on current guidance.

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Larsen Eric R [<mailto:eric.larsen@irs.gov>]  
**Sent:** Monday, July 15, 2013 9:06 AM  
**To:** Ronk Alice L  
**Cc:** Berman Samuel; Powell-Stringer Portia E; Taylor James E  
**Subject:** Development of examples for IRS.gov in response to GAO audit

Hi Alice,

Attached are the questions/examples that I came up with that I believe cover the issues raised by the GAO and by the Taxpayer Advocate. The questions are framed as questions from taxpayers that cover the areas of guidance from the perspective of taxpayers that accept bitcoins as payment, speculators, a bitcoin mining business, and bitcoin exchanges. Also, for game game currencies from the perspective of the online gamer and the operator of the virtual world.

I used "bitcoins" or "litecoins" in the many of the questions that will be later used as examples. Those specific VCs can be readily changed to another term or to "virtual currency" later on.

I put down suggested answers on several of the questions, but ended up deleting my suggested answers because some of it probably had my biases in it is premature at this point. I left the suggested answer in for question #5, because I thought this was fairly straightforward and more of a general small business question than a bitcoin question.

I am in all today and the rest of the week.

Eric

## Griffin Adrienne E

---

**From:** Hall Charles A  
**Sent:** Monday, August 26, 2013 1:10 PM  
**To:** Lesniak Emily M  
**Cc:** Dusenberry Blaise G; Fuller Pamela W; Griffin Adrienne E; Prasad Girish; Cottrell Mark E  
**Subject:** RE: IRS Representatives at a Meeting Today with Representatives from the Bitcoin Foundation

No, this is the first I've heard of it, and Mark, Girish, Adrienne and I have been working with others in Counsel in response to a GAO audit on virtual currencies.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 622-7269

**From:** Fuller Pamela W  
**Sent:** Monday, August 26, 2013 12:50 PM  
**To:** Lesniak Emily M; Hall Charles A  
**Cc:** Dusenberry Blaise G  
**Subject:** RE: IRS Representatives at a Meeting Today with Representatives from the Bitcoin Foundation

No. Perhaps Chuck may know about it.

Pamela Wilson Fuller  
(202) 622-7559  
(202) 622-3766 (fax)  
CC:PA:02  
Pamela.W.Fuller@irs.counsel.treas.gov

**From:** Lesniak Emily M  
**Sent:** Monday, August 26, 2013 12:35 PM  
**To:** Dusenberry Blaise G; Fuller Pamela W  
**Subject:** FW: IRS Representatives at a Meeting Today with Representatives from the Bitcoin Foundation

Hi,

Do you know anything about a meeting today with Bitcoin group?

Thanks,  
Emily

Emily M. Lesniak  
Special Counsel  
Procedure and Administration  
202-622-7085

**From:** Cooper Matthew S  
**Sent:** Monday, August 26, 2013 12:26 PM  
**To:** Lesniak Emily M; Schneiderman Henry S; Goldstein Richard S  
**Subject:** RE: IRS Representatives at a Meeting Today with Representatives from the Bitcoin Foundation

I doubt anyone from Counsel went to the meeting, but I believe Blaise and/or Pam may have had some involvement in Bitcoin issues in the past if you want to check with them.

---

**From:** Lesniak Emily M  
**Sent:** Monday, August 26, 2013 12:11 PM  
**To:** Schneiderman Henry S; Goldstein Richard S; Cooper Matthew S  
**Subject:** FW: IRS Representatives at a Meeting Today with Representatives from the Bitcoin Foundation

In case you have any information on who may be attending the meeting.

~Emily

Emily M. Lesniak  
Special Counsel  
Procedure and Administration  
202-622-7085

---

**From:** Berman Samuel  
**Sent:** Monday, August 26, 2013 12:08 PM  
**To:** Cottrell Mark E; Yanes Marta - CT; Needle Martin E - CT; Lesniak Emily M; Henderson Joseph S; Welsh Donna J; Blum Steven H; Shuman Lisa J; Conroy William F  
**Subject:** IRS Representatives at a Meeting Today with Representatives from the Bitcoin Foundation

Everyone,

The Wall Street Journal article below states that representatives from various federal agencies, including IRS, would be attending a meeting today with representatives from the Bitcoin Foundation. We are trying to find out who, within IRS, was planning to attend. If you know of anyone who was planning to attend this meeting, please let me know.

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

**Wall Street Journal**  
**Bitcoin Group, Regulators to Meet**  
***By Robin Sidel***

Representatives from at least seven government agencies are scheduled to meet Monday with the main Bitcoin trade group amid a growing focus from regulators and law-enforcement authorities on the fledgling virtual currency.

Patrick Murck, general counsel for the Bitcoin Foundation, said he would make a presentation and answer questions from representatives of the Federal Reserve, Treasury Department, Federal Deposit Insurance Corp., Office of the Comptroller of the Currency, Internal Revenue Service, Federal Bureau of Investigation and Secret Service.

The IRS, FBI and Secret Service declined to comment. Representatives of the other agencies couldn't be reached for comment Sunday. The meeting is the latest sign that federal authorities are trying to figure out their jurisdiction in the world of virtual currencies, which aren't backed by a central government like traditional money.



Bitcoin, which is the most popular of these currencies, is created through a computer program and then traded on exchanges. It can also be used to buy real goods and services.

So far, authorities have focused their efforts on trying to ensure that Bitcoin exchanges don't run afoul of money-transmission laws or that the virtual currency isn't used for illegal activities, such as money laundering or drug purchases.

The Treasury Department's Financial Crimes Enforcement Network earlier this year issued guidelines placing virtual-currency exchanges under the same comprehensive anti-money-laundering requirements as traditional money-transmission businesses such as Western Union Co.

Mr. Murck said he is pleased with the chance to provide more information "so we can both move forward to the same safe regulatory environment."

"We understand there are specific challenges that go along with Bitcoin and there is a lot of potential and we want to work with them to chart a safe course," he said of the government agencies.

The trade group and some Bitcoin companies say they support efforts to ensure that the industry is operating in compliance with certain laws.

They contend that will help legitimize the fledgling industry and keep out bad players who want to use the currency for illegal activities.

It isn't clear if representatives from state banking agencies would attend the meeting.

Several states, including California and New York, have warned Bitcoin-related companies in recent months that they may be violating local money-transmission laws. And New York's Department of Financial Services earlier this month sent subpoenas to roughly two dozen Bitcoin companies seeking information on their business practices. One bitcoin is worth roughly \$122 on the Tokyo-based Mt. Gox exchange, where most bitcoins are traded.

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Larsen Eric R [<mailto:eric.larsen@irs.gov>]  
**Sent:** Monday, August 26, 2013 10:53 AM  
**To:** Berman Samuel  
**Subject:** FAQs on Virtual Currencies

Hi Sam,

Can you send me the article you mentioned in today's call.

Thank You,

Eric

## Griffin Adrienne E

---

**From:** Lesniak Emily M  
**Sent:** Wednesday, August 28, 2013 10:11 AM  
**To:** Cottrell Mark E; Schneiderman Henry S; Hall Charles A; Prasad Girish; Griffin Adrienne E  
**Subject:** TNT Article on Bitcoin Meeting

### Bitcoin Reps and Federal Regulators Discuss Investigations, Education by William Hoffman



Summary by **taxanalysts**

Federal authorities explored the investigative methods that might be used to track potentially taxable Bitcoin transactions during a two-hour, closed-door meeting between the Bitcoin Foundation and more than a half-dozen government regulators August 26 in Washington.

Full Text Published by **taxanalysts**

Federal authorities explored the investigative methods that might be used to track potentially taxable Bitcoin transactions during a two-hour, closed-door meeting between the Bitcoin Foundation and more than a half-dozen government regulators August 26 in Washington.

Marco Santori, chair of the Bitcoin Foundation's regulatory affairs committee, said foundation representatives during the meeting presented a scenario to show investigators how they could determine online where Bitcoins come from and go, in what amounts, and at what times.

Steve Hudak, a spokesman for Treasury's Financial Crimes Enforcement Network who attended the meeting, said, "It was a very informational and cordial meeting." Santori agreed: "We were thrilled that the government wanted to have that dialogue."

The IRS did not respond to a call for comment.

Bitcoin is a software-based currency that trades openly over peer-to-peer computer networks and can be used to buy real-world goods and services. It is designed to protect the privacy of its users through encryption technology, although advocates such as Santori say that all transactions are transparent and traceable online by users. Federal regulators are concerned about Bitcoin's -- and other "virtual" or "digital" currencies' -- possible uses in criminal enterprises. (Prior coverage [D](#).)

Three attendees at the event -- which was closed to the press -- said they could recall no other specific questions raised about tax administration or policy related to Bitcoin. Jerry Brito, senior research fellow at George Mason University's Mercatus Center, said, "The Bitcoin Foundation just wanted to see regulators treat the businesses that operate using the Bitcoin network as businesses using any other network."

"Bitcoin turns traditional investigative methodologies on their head," Santori said. With conventional money transfers, investigators usually know who sent money to whom, though the actual transaction remains private, he said. With Bitcoin, all transactions are recorded and publicly available online, but user identities may remain cloaked, he said.

"You are as public or private as you want to be. It puts the onus on the user to secure their own privacy," Santori said. "It's up to law enforcement to figure out who's doing what, but law enforcement has tools to do that."

The federal government has taken preliminary steps to determine whether and when Bitcoin transactions are taxable, but all agreed there's more work to do.

Brito said FinCEN, primarily concerned with money laundering, issued guidance on virtual currencies on March 18 but doesn't seem to have consulted the Bitcoin community. That caused confusion and uncertainty among the small but growing number of businesses using Bitcoin, he said.

The Government Accountability Office issued a report in May (GAO-13-516 [D](#)) recommending that the IRS issue clearer and more public guidance about the tax compliance issues and pitfalls to taxpayers.

In a May 3 response included with the report, Steven Miller, then-deputy commissioner for services and enforcement, told the GAO that the Service would provide information by linking to existing guidance on basic tax reporting requirements for virtual currency transactions.

Brito said he doubts the \$1 billion-or-so Bitcoin economy is a priority for the IRS, calling it "small potatoes at this point." He said decentralized virtual currencies such as Bitcoin make lousy vehicles for tax evasion: "If I was trying to hide income, I don't think I'd use Bitcoin. I'd try something else."

Hudak said the August 26 meeting was a general overview of Bitcoin, meant to open the door to future conversation, and that no follow-up meetings or plans were announced.

"What we all wanted to do is start a dialogue," said Santori. "I think we achieved that."

Emily M. Lesniak  
Special Counsel  
Procedure and Administration  
IRS, Office of Chief Counsel  
Room 5525  
1111 Constitution Ave. NW  
Washington, D.C. 20224  
202-622-7085

## Griffin Adrienne E

---

**From:** Welsh Donna J  
**Sent:** Friday, September 13, 2013 12:50 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J  
**Cc:** Keyso Jr. Andrew J  
**Subject:** RE: Virtual Currency Draft FAQs



Bit  
CoinFAQ0913IT...

Hi Everyone, Here is the first draft FAQ based on great assistances from Intl, PA, TEGE, and FIP. I would like to meet the during the week of 9/23 to discuss comments/revisions. I would like to have a finished draft by 9/27 (plus or minus) to provide to Alice Ronk.

Thank you all for your hard work.

Questions/Examples to counsel about Virtual Currencies (to be used in developing Q&A examples on IRS.gov)

(b)(5)

**Griffin Adrienne E**

---

**From:** Berman Samuel  
**Sent:** Monday, September 16, 2013 12:02 PM  
**To:** Welsh Donna J  
**Cc:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Warren Brinton T; Dwyer Sean M; Aqui Keith A  
**Subject:** RE: Virtual Currency Draft FAQs

Donna,

Yes, I will be back on Monday, Sept. 30. Thanks. We told the GAO we were thinking

(b)(5)

(b)(5)

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Welsh Donna J  
**Sent:** Monday, September 16, 2013 11:49 AM  
**To:** Berman Samuel  
**Cc:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Virtual Currency Draft FAQs

Hi Sam, thanks for your comments. We modeled these FAQs based on

(b)(5)

(b)(5)

In your absence, we will go ahead and meet and come up with a final draft for everyone to look at before we submit to Alice. Will you be back 9/30? (b)(5)

Thanks again!

---

**From:** Berman Samuel  
**Sent:** Monday, September 16, 2013 10:44 AM  
**To:** Welsh Donna J  
**Cc:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J  
**Subject:** FW: Virtual Currency Draft FAQs

Donna,

Thanks. I will be out of the office this Thursday and Friday, and on leave for all of the following week.

As a general comment, I think the responses

(b)(5)

(b)(5)

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Welsh Donna J  
**Sent:** Friday, September 13, 2013 12:50 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J

**Cc:** Keyso Jr. Andrew J

**Subject:** RE: Virtual Currency Draft FAQs

<< File: Bit CoinFAQ0913ITADraft.docx >>

Hi Everyone, Here is the first draft FAQ based on great assistances from Intl, PA, TEGE, and FIP. I would like to meet the during the week of 9/23 to discuss comments/revisions. I would like to have a finished draft by 9/27 (plus or minus) to provide to Alice Ronk.

Thank you all for your hard work.



## Griffin Adrienne E

---

**From:** Griffin Adrienne E  
**Sent:** Thursday, September 19, 2013 7:19 AM  
**To:** Welsh Donna J  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E  
**Subject:** RE: Virtual Currency Draft FAQs

Tracking:	Recipient	Read
	Welsh Donna J	Read: 9/19/2013 9:50 AM
	Prasad Girish	Read: 9/19/2013 7:19 AM
	Hall Charles A	Read: 9/19/2013 9:03 AM
	Cottrell Mark E	Read: 9/19/2013 10:04 AM

Donna,

We have two edits to question 11 – t

(b)(5)

(b)(5)

(b)(5)

If you have any questions please let us know.



Bit

CoinFAQ0913IT...

### Adrienne Griffin

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

---

**From:** Welsh Donna J  
**Sent:** Friday, September 13, 2013 12:50 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J  
**Cc:** Keyso Jr. Andrew J  
**Subject:** RE: Virtual Currency Draft FAQs

<< File: Bit CoinFAQ0913ITADraft.docx >>

Hi Everyone, Here is the first draft FAQ based on great assistances from Intl, PA, TEGE, and FIP. I would like to meet the during the week of 9/23 to discuss comments/revisions. I would like to have a finished draft by 9/27 (plus or minus) to provide to Alice Ronk.

Thank you all for your hard work.

## Griffin Adrienne E

---

**From:** Welsh Donna J  
**Sent:** Wednesday, September 25, 2013 2:41 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B  
**Cc:** Cook Janine  
**Subject:** Virtual Currency Draft FAQs--Final Edits  
**Attachments:** Virtual Currency QA 0925TEGE.doc

Hi everyone, here are CC:TEGE's edits for tomorrow's meeting at 10 am in Room 4415. Hopefully, we will have a final agreed version at the end of tomorrow's meeting.

Thanks!  
Donna

## Griffin Adrienne E

---

**From:** Welsh Donna J  
**Sent:** Wednesday, July 24, 2013 3:16 PM  
**To:** Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Erwin Mark E; Griffin Adrienne E; Prasad Girish; Dubert Alexa T  
**Subject:** FW: Virtual Currency

Hi All, More information on Bitcoins...not real currency.

[thanks Neil.]

---

**From:** Shepherd Neil D  
**Sent:** Wednesday, July 24, 2013 1:40 PM  
**To:** Welsh Donna J  
**Cc:** Camillo Lynne A; Richards John B; Shepherd Neil D  
**Subject:** Virtual Currency

Greetings, Donna. I'm sure you're buried under Bitcoin related information, but I wanted to make sure that you have the FinCEN guidance relating to virtual currencies (attached). Additionally, the European Central Bank prepared a report on "virtual currency schemes" with a section devoted to Bitcoins (also attached). Anecdotally, it appears that both the Federal Reserve and the Securities & Exchange Commission are looking at Bitcoins. To the extent possible, a consistent approach among various Federal agencies seems advisable.

Many thanks.



FinCEN  
Guidance.pdf



Virtual Currency  
[ECB].pdf

**Griffin Adrienne E**

---

**From:** Griffin Adrienne E  
**Sent:** Monday, September 30, 2013 4:52 PM  
**To:** Prasad Girish  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

<b>Tracking:</b>	<b>Recipient</b>	<b>Read</b>
	Prasad Girish	Read: 9/30/2013 4:52 PM

Hi Girish,

That is correct – Neil had asked [REDACTED]

(b)(5)

(b)(5)

will send this back to Donna.

Thanks,  
Adrienne

**Adrienne Griffin**

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

**From:** Prasad Girish  
**Sent:** Monday, September 30, 2013 4:50 PM  
**To:** Griffin Adrienne E  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

Hey Adrienne – I don't have any comments. I remember you telling me [REDACTED]

(b)(5)

(b)(5)

If you're okay with it, please go ahead and respond to Donna.

Thanks!

**From:** Hall Charles A  
**Sent:** Monday, September 30, 2013 2:59 PM  
**To:** Prasad Girish; Griffin Adrienne E  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

I only had a couple of nits as shown in the attached. Unless you see anything to comment on, please respond to Donna. Thanks.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel

CC:PA:3 (On Detail to Procedure & Administration, Branch 3 effective 9/3/13)  
(202) 622-7269

**From:** Welsh Donna J

**Sent:** Friday, September 27, 2013 4:05 PM

**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aquil Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J

**Cc:** Cook Janine; Keyso Jr. Andrew J

**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi everyone. Here's what I hope is the final version. This revised draft includes an intro and a few misc edits. [REDACTED] (b)(5)

[REDACTED] Please read afresh b/c there are minor (b)(5)  
edits here and there. I would appreciate your final comments/edit by COB Tuesday so that we can send forward for briefing.

Thanks!  
Donna

## Griffin Adrienne E

---

**From:** Griffin Adrienne E  
**Sent:** Thursday, October 17, 2013 10:44 AM  
**To:** Welsh Donna J  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits  
**Attachments:** VirtualCurrency.QA.09.30.13.doc

Tracking:	Recipient	Read
	Welsh Donna J	Read: 10/17/2013 11:14 AM
	Prasad Girish	Read: 10/17/2013 10:44 AM
	Hall Charles A	Read: 10/17/2013 10:44 AM
	Cottrell Mark E	Read: 10/17/2013 10:48 AM

Donna,

Here is the draft with some minor edits from P&A.

Thanks,  
Adrienne

### **Adrienne Griffin**

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

---

**From:** Hall Charles A  
**Sent:** Thursday, October 17, 2013 10:26 AM  
**To:** Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

I think this is the correct version (very minor nits). Sorry for the confusion.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:3 (On Detail to Procedure & Administration, Branch 3 effective 9/3/13)  
(202) 622-7269

---

**From:** Prasad Girish  
**Sent:** Thursday, October 17, 2013 10:22 AM  
**To:** Hall Charles A; Griffin Adrienne E  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Welcome back, everyone!

Chuck, we could not see your changes in this version for some reason. Could you please re-send?

Thanks.

---

**From:** Hall Charles A  
**Sent:** Monday, September 30, 2013 2:59 PM  
**To:** Prasad Girish; Griffin Adrienne E  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

I only had a couple of nits as shown in the attached. Unless you see anything to comment on, please respond to Donna. Thanks.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:3 (On Detail to Procedure & Administration, Branch 3 effective 9/3/13)  
(202) 622-7269

---

**From:** Welsh Donna J  
**Sent:** Friday, September 27, 2013 4:05 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J  
**Cc:** Cook Janine; Keyso Jr. Andrew J  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi everyone, Here's what I hope is the final version. This revised draft includes an intro and a few misc edits. [REDACTED] (b)(5)  
[REDACTED] Please read afresh b/c there are minor (b)(5)  
edits here and there. I would appreciate your final comments/edit by COB Tuesday so that we can send forward for briefing.

Thanks!  
Donna



## Griffin Adrienne E

---

**From:** Rochelle.Hodes@treasury.gov  
**Sent:** Wednesday, November 20, 2013 11:38 AM  
**To:** Prasad Girish; Griffin Adrienne E; Hall Charles A  
**Subject:** please take a look and let me know your thoughts  
**Attachments:** FAQ info reporting piece rlh.docx

Hi guys. I have made some revisions to the information reporting parts of the Bitcoin FAQs and I was wondering what your thoughts were before I send these along to my reviewers here. Once you have a chance to take a look, could you give me a call so we can discuss? Thanks!

Rochelle Hodes  
Office of Tax Policy  
Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, D.C. 20220  
Phone 202.622.1787  
[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Griffin Adrienne E**

---

**From:** Welsh Donna J  
**Sent:** Monday, November 25, 2013 2:58 PM  
**To:** Griffin Adrienne E  
**Cc:** Prasad Girish  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi Adrienne, We briefed Erik Corwin on 11/13 and provided the provided the draft to Alice Ronk (IRS) and Treasury on 11/13. So, the ball is with Treasury and IRS to come back with comments/changes.

**From:** Griffin Adrienne E  
**Sent:** Monday, November 25, 2013 11:47 AM  
**To:** Welsh Donna J  
**Cc:** Prasad Girish  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi Donna,

Could you let us know the status of these FAQs? We've gotten some questions [REDACTED] (b)(5)  
[REDACTED] (b)(5)  
[REDACTED] (b)(5) But we wanted to get an idea of where the FAQs are in our internal review.

Thanks,  
Adrienne

**Adrienne Griffin**  
CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
**Please note: new phone number is 202-317-5155**

**From:** Welsh Donna J  
**Sent:** Friday, October 18, 2013 2:27 PM  
**To:** Griffin Adrienne E  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Thanks!

**From:** Griffin Adrienne E  
**Sent:** Thursday, October 17, 2013 10:44 AM  
**To:** Welsh Donna J  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

Donna,

Here is the draft with some minor edits from P&A.

Thanks,

Adrienne

**Adrienne Griffin**

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

**From:** Hall Charles A  
**Sent:** Thursday, October 17, 2013 10:26 AM  
**To:** Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

I think this is the correct version (very minor nits). Sorry for the confusion.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:3 (On Detail to Procedure & Administration, Branch 3 effective 9/3/13)  
(202) 622-7269

**From:** Prasad Girish  
**Sent:** Thursday, October 17, 2013 10:22 AM  
**To:** Hall Charles A; Griffin Adrienne E  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Welcome back, everyone!

Chuck, we could not see your changes in this version for some reason. Could you please re-send?

Thanks.

**From:** Hall Charles A  
**Sent:** Monday, September 30, 2013 2:59 PM  
**To:** Prasad Girish; Griffin Adrienne E  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

I only had a couple of nits as shown in the attached. Unless you see anything to comment on, please respond to Donna. Thanks.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:3 (On Detail to Procedure & Administration, Branch 3 effective 9/3/13)  
(202) 622-7269

**From:** Welsh Donna J  
**Sent:** Friday, September 27, 2013 4:05 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne

A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J

**Cc:** Cook Janine; Keyso Jr. Andrew J

**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi everyone, Here's what I hope is the final version. This revised draft includes an intro and a few misc edits. [REDACTED] (b)(5)  
[REDACTED] Please read afresh b/c there are minor (b)(5)  
edits here and there. I would appreciate your final comments/edit by COB Tuesday so that we can send forward for briefing.

Thanks!

Donna

## Griffin Adrienne E

---

**From:** Griffin Adrienne E  
**Sent:** Monday, November 25, 2013 5:27 PM  
**To:** Prasad Girish  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Tracking:	Recipient	Read
	Prasad Girish	Read: 11/25/2013 6:05 PM

Ok. I did finally catch him in. He is fine with Rochelle's edits and my slight changes to them – I don't know if you looked [redacted] can (b)(5)  
send it back to Rochelle, if you're ok with my edits.

Mark then said he wanted to be on the call when we discuss the regulation with Rochelle – he said he would look at our calendars and try to set something up for Wednesday or Monday. (I'm out on Friday). I mentioned we had been in contact with [redacted] on the definition and he said that's good. (b)(3)/26 USC 6103

Finally, he asked if we could look one more time at the [redacted] (b)(5)  
[redacted] (b)(5)

Thanks,  
Adrienne

**Adrienne Griffin**  
CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
**Please note: new phone number is 202-317-5155**

---

**From:** Prasad Girish  
**Sent:** Monday, November 25, 2013 3:16 PM  
**To:** Griffin Adrienne E  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Thanks!

---

**From:** Griffin Adrienne E  
**Sent:** Monday, November 25, 2013 3:16 PM  
**To:** Prasad Girish  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

I just stopped by his office but his door was closed and he seemed to be on the phone – will check back again in a bit.

**Adrienne Griffin**  
CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
**Please note: new phone number is 202-317-5155**

**From:** Prasad Girish  
**Sent:** Monday, November 25, 2013 3:03 PM  
**To:** Griffin Adrienne E  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

That clears up how Rochelle received the FAQs. Did Mark mention that he had any concerns with Rochelle's changes or that he needed additional time to look through them?

**From:** Welsh Donna J  
**Sent:** Monday, November 25, 2013 2:58 PM  
**To:** Griffin Adrienne E  
**Cc:** Prasad Girish  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi Adrienne, We briefed Erik Corwin on 11/13 and provided the provided the draft to Alice Ronk (IRS) and Treasury on 11/13. So, the ball is with Treasury and IRS to come back with comments/changes.

**From:** Griffin Adrienne E  
**Sent:** Monday, November 25, 2013 11:47 AM  
**To:** Welsh Donna J  
**Cc:** Prasad Girish  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi Donna,

Could you let us know the status of these FAQs? We've gotten some questions (b)(5)  
[REDACTED] But we wanted to (b)(5)  
get an idea of where the FAQs are in our internal review.

Thanks,  
Adrienne

**Adrienne Griffin**  
CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
**Please note: new phone number is 202-317-5155**

**From:** Welsh Donna J  
**Sent:** Friday, October 18, 2013 2:27 PM  
**To:** Griffin Adrienne E  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Thanks!

**From:** Griffin Adrienne E  
**Sent:** Thursday, October 17, 2013 10:44 AM  
**To:** Welsh Donna J  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

Donna,

Here is the draft with some minor edits from P&A.

Thanks,  
Adrienne

**Adrienne Griffin**

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

**From:** Hall Charles A  
**Sent:** Thursday, October 17, 2013 10:26 AM  
**To:** Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

I think this is the correct version (very minor nits). Sorry for the confusion.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:3 (On Detail to Procedure & Administration, Branch 3 effective 9/3/13)  
(202) 622-7269

**From:** Prasad Girish  
**Sent:** Thursday, October 17, 2013 10:22 AM  
**To:** Hall Charles A; Griffin Adrienne E  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Welcome back, everyone!

Chuck, we could not see your changes in this version for some reason. Could you please re-send?

Thanks.

**From:** Hall Charles A  
**Sent:** Monday, September 30, 2013 2:59 PM  
**To:** Prasad Girish; Griffin Adrienne E  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

I only had a couple of nits as shown in the attached. Unless you see anything to comment on, please respond to Donna. Thanks.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel

CC:PA:3 (On Detail to Procedure & Administration, Branch 3 effective 9/3/13)  
(202) 622-7269

**From:** Welsh Donna J

**Sent:** Friday, September 27, 2013 4:05 PM

**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J

**Cc:** Cook Janine; Keyso Jr. Andrew J

**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi everyone. Here's what I hope is the final version. This revised draft includes an intro and a few misc edits. [REDACTED] (b)(5)  
[REDACTED] Please read afresh b/c there are minor (b)(5)  
edits here and there. I would appreciate your final comments/edit by COB Tuesday so that we can send forward for briefing.

Thanks!  
Donna



## Griffin Adrienne E

---

**From:** Griffin Adrienne E  
**Sent:** Monday, November 25, 2013 6:23 PM  
**To:** Rochelle.Hodes@treasury.gov  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E  
**Subject:** RE: please take a look and let me know your thoughts  
**Attachments:** FAQ info reporting piece rlh P&A.docx

Tracking:	Recipient	Read
	Rochelle.Hodes@treasury.gov	
	Prasad Girish	Read: 11/25/2013 6:23 PM
	Hall Charles A	Read: 12/2/2013 9:26 AM
	Cottrell Mark E	Read: 11/25/2013 6:41 PM

Hi Rochelle,

We are fine with the changes you made to the draft FAQs, and thought

(b)(5)

(b)(5)

Thanks,  
Adrienne

### **Adrienne Griffin**

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224

**Please note: new phone number is 202-317-5155**

---

**From:** Cottrell Mark E  
**Sent:** Monday, November 25, 2013 10:18 AM  
**To:** Griffin Adrienne E; Prasad Girish  
**Subject:** FW: please take a look and let me know your thoughts

FYI.

---

**From:** Rochelle.Hodes@treasury.gov [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Friday, November 22, 2013 4:40 PM  
**To:** Cottrell Mark E  
**Subject:** FW: please take a look and let me know your thoughts

I haven't heard from the Branch. Did they get this?

---

**From:** Hodes, Rochelle  
**Sent:** Wednesday, November 20, 2013 11:38 AM

**To:** Prasad, Girish K ([girish.prasad@irsounsel.treas.gov](mailto:girish.prasad@irsounsel.treas.gov)); Griffin, Adrienne E ([adrienne.e.griffin@irsounsel.treas.gov](mailto:adrienne.e.griffin@irsounsel.treas.gov)); Hall, Charles A ([charles.a.hall@irsounsel.treas.gov](mailto:charles.a.hall@irsounsel.treas.gov))

**Subject:** please take a look and let me know your thoughts

Hi guys. I have made some revisions to the information reporting parts of the Bitcoin FAQs and I was wondering what your thoughts were before I send these along to my reviewers here. Once you have a chance to take a look, could you give me a call so we can discuss? Thanks!

**Rochelle Hodes**

Office of Tax Policy

Department of the Treasury

1500 Pennsylvania Ave., NW

Washington, D.C. 20220

Phone 202.622.1787

[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Griffin Adrienne E**

---

**From:** Prasad Girish  
**Sent:** Thursday, January 16, 2014 4:01 PM  
**To:** Hall Charles A  
**Cc:** Griffin Adrienne E  
**Subject:** FW: revisions to TPSO question in Bitcoin FAQs for comment

Hi Chuck —

Below are our suggested edits.

(b)(5)

(b)(5)

Let us know if you'd like to discuss.

Thanks,

Girish

(b)(5)

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]

**Sent:** Wednesday, January 15, 2014 11:00 AM

**To:** Griffin Adrienne E; Prasad Girish; Hall Charles A

**Subject:** revisions to TPSO question in Bitcoin FAQs for comment

**Does the below work?**

**Griffin Adrienne E**

---

**From:** Prasad Girish  
**Sent:** Friday, January 17, 2014 3:35 PM  
**To:** Rochelle.Hodes@treasury.gov  
**Cc:** Griffin Adrienne E; Hall Charles A  
**Subject:** FW: revisions to TPSO question in Bitcoin FAQs for comment

Hi Rochelle -

Below are our suggested edits.

[Redacted] (b)(5)

[Redacted] (b)(5)

Let us know if you'd like to discuss.

Thanks,

Girish

[Redacted] (b)(5)

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]

**Sent:** Wednesday, January 15, 2014 11:00 AM

**To:** Griffin Adrienne E; Prasad Girish; Hall Charles A

**Subject:** revisions to TPSO question in Bitcoin FAQs for comment

**Does the below work?**

## Griffin Adrienne E

---

**From:** Griffin Adrienne E  
**Sent:** Thursday, January 23, 2014 7:52 AM  
**To:** Rose Nancy L  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits  
**Attachments:** Virtual Currency QA 0927ITAdoc.doc

Hi Nancy –

This is the latest draft of the virtual currency FAQs I mentioned yesterday – I don't have the draft that was actually sent to Treasury. They still have it, and Rochelle mentioned the other day that they would like for it to be a Notice rather than an FAQ (although they would retain the question and answer format).

### *Adrienne Griffin*

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
202-317-5155

---

**From:** Welsh Donna J  
**Sent:** Friday, October 18, 2013 1:17 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J; Keyso Jr. Andrew J; Cook Janine; Welsh Donna J  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

Hi Everyone, I will spare you the welcome back speech. But I would appreciate your final edits by COB 10/23/13.

Thanks!  
djw

---

**From:** Welsh Donna J  
**Sent:** Friday, September 27, 2013 4:05 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J  
**Cc:** Cook Janine; Keyso Jr. Andrew J  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi everyone, Here's what I hope is the final version. This revised draft includes an intro and a few misc edits.  (b)(5)  
 Please read afresh b/c there are minor (b)(5)  
edits here and there. I would appreciate you final comments/edit by COB Tuesday so that we can send forward for briefing.

Thanks!  
Donna

**Griffin Adrienne E**

---

**From:** Welsh Donna J  
**Sent:** Wednesday, January 29, 2014 12:44 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B  
**Cc:** Cook Janine; Keyso Jr. Andrew J; Montemurro Michael J; Welsh Donna J  
**Subject:** Virtual Currency Draft FAQs --Treasury's version  
**Attachments:** Bitcoin Notice 1-29-14.docx

Hi everyone, Here are Treasury's changes to our FAQs in a clean-read version.

(b)(5)

(b)(5)

I am going to schedule a meeting next Wednesday, 2/5/14, for the Associate Offices to discuss Treasury's comments. Ideally, I would like to provide Treasury with our combined comments on Friday, 2/7/14. We need to add contact information for TEGE, PA, and FIP, so please let me know who your office's contact is and their Branch's general phone number.

Thanks to all for your hard work on this novel project.

Donna



## Griffin Adrienne E

---

**From:** Griffin Adrienne E  
**Sent:** Tuesday, February 04, 2014 12:05 PM  
**To:** Rose Nancy L  
**Cc:** Hara Michael E  
**Subject:** FW: Virtual Currency Draft FAQs --Treasury's version  
**Attachments:** Bitcoin Notice 1-29-14.docx

Hi Nancy and Mike --

In case you are interested in seeing the latest draft, this is the version of the virtual currency FAQs that came back from Treasury.  (b)(5)

Thanks,  
Adrienne

### **Adrienne Griffin**

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
202-317-5155

---

**From:** Welsh Donna J  
**Sent:** Wednesday, January 29, 2014 12:44 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aquil Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B  
**Cc:** Cook Janine; Keyso Jr. Andrew J; Montemurro Michael J; Welsh Donna J  
**Subject:** Virtual Currency Draft FAQs --Treasury's version

Hi everyone, Here are Treasury's changes to our FAQs in a clean-read version.  (b)(5)

 (b)(5)

I am going to schedule a meeting next Wednesday, 2/5/14, for the Associate Offices to discuss Treasury's comments. Ideally, I would like to provide Treasury with our combined comments on Friday, 2/7/14. We need to add contact information for TEGE, PA, and FIP, so please let me know who your office's contact is and their Branch's general phone number.

Thanks to all for your hard work on this novel project.

Donna

## Griffin Adrienne E

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 05, 2014 5:51 PM  
**To:** Rochelle.Hodes@treasury.gov; Welsh Donna J; Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Richards John B; Tackney Stephen B; Ronk Alice L  
**Cc:** Cook Janine; Keyso Jr. Andrew J; Milnes-Vasquez Marie C  
**Subject:** Virtual Currency Draft FAQs -- Proposed Revisions to Treasury's version  
**Attachments:** Bitcoin Notice 2-5-14 5PM.docx

Rochelle et al – Attached is a revised draft of the virtual currency FAQs with Counsel's proposed revisions to Treasury's 1/29/14 draft.

I thought a few general comments about our proposed revisions would be helpful. The FAQs were always intended

(b)(5)

(b)(5)

Please note that, while ITA has made an honest effort to reflect the comments and suggestions of the other divisions, they have not had an opportunity to review the proposed revisions because we wanted to get this to you as soon as possible. Also note that while Marie, who is on detail to Erik Corwin, has recently joined our working group, Erik also has not had an opportunity to review and comment our proposed revisions. So, other comments, corrections etc. may be forthcoming.

I think that's it. I will be out of the office the next 3 business days so please rely on Donna as the primary contact during my absence.

All – Please forward to anyone I may have overlooked.

Doug Fahey  
**NEW PHONE 202-317-4619**

**Griffin Adrienne E**

---

**From:** Griffin Adrienne E  
**Sent:** Friday, February 14, 2014 3:38 PM  
**To:** Prasad Girish  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Sure, I will go ahead and do that.

**Adrienne Griffin**

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
202-317-5155

---

**From:** Prasad Girish  
**Sent:** Friday, February 14, 2014 3:25 PM  
**To:** Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Okay, that makes some sense. Wonder what the folks at TEGE and INTL will have to say about it.

I thought that was the general practice as well (using the branch number). If you don't mind, could you pass along the comment below to Chuck when asking him about the correct number? Thanks!

---

**From:** Griffin Adrienne E  
**Sent:** Friday, February 14, 2014 3:14 PM  
**To:** Prasad Girish  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

**Adrienne Griffin**

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
202-317-5155

---

**From:** Prasad Girish  
**Sent:** Friday, February 14, 2014 2:37 PM  
**To:** Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I saw that. It looks like

(b)(5)

(b)(5)

I think that lines it up with the answer as well.

---

**From:** Griffin Adrienne E  
**Sent:** Friday, February 14, 2014 2:24 PM  
**To:** Prasad Girish  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

I don't have my file on this, but I will note that "fiat" is back in...

***Adrienne Griffin***

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
**202-317-5155**

---

**From:** Hall Charles A  
**Sent:** Friday, February 14, 2014 2:09 PM  
**To:** Griffin Adrienne E; Prasad Girish  
**Cc:** Cottrell Mark E; Welsh Donna J  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Zuba Kathryn A  
**Sent:** Friday, February 14, 2014 1:30 PM  
**To:** Hall Charles A  
**Cc:** Schindler Frederick W; Lucey Matthew D  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

I didn't see you on this list, but wanted to make sure that the appropriate PA people looked at this.

*Kathryn A. Zuba*  
Deputy Associate Chief Counsel (P&A)  
tel. 202.317.5377  
fax 202.622.4914  
[kathryn.a.zuba@irscounsel.treas.gov](mailto:kathryn.a.zuba@irscounsel.treas.gov)

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 14, 2014 1:13 PM  
**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Greensheet Circulation - Notice on Virtual Currencies

#### EXPEDITED REVIEW REQUESTED

Attached is a proposed notice that provides guidance in a Q&A format on some of the tax consequences arising from transactions using virtual currencies, including Bitcoin. The notice is targeted for release by the end of this month, so please submit any comments to me no later than COB Friday 2/21/14.

<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey  
**NEW PHONE 202-317-4619**



## Griffin Adrienne E

---

**From:** Lucey Matthew D  
**Sent:** Friday, February 14, 2014 4:29 PM  
**To:** Griffin Adrienne E  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 14, 2014 1:13 PM  
**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)  
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Bitcoin Notice  
2-14-14.docx

Doug Fahey  
NEW PHONE 202-317-4619

## Griffin Adrienne E

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 18, 2014 1:03 PM  
**To:** Hall Charles A  
**Cc:** Cottrell Mark E; Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Thanks, will do. Also, I received the attached e-mail from Patty McClanahan regarding the information reporting Q&As. Please let me know whether you agree with her and if any revisions need to be made.



RE: Greensheet  
Circulation - N...

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Hall Charles A  
**Sent:** Tuesday, February 18, 2014 12:16 PM  
**To:** Fahey Douglas A  
**Cc:** Cottrell Mark E; Prasad Girish; Griffin Adrienne E  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Doug, PA has two comments (incorporated in the attached and set forth below).

First, the language in red below should be added to

(b)(5)

(b)(5)

Second, in Section 6, Drafting Information, please change the contact number for Adrienne to 202-317-6845, which is the PA branch 1 number. The number currently listed is her direct dial number, which should not go out in the Notice.

Let me know if you have any questions. Thanks.

<< File: BitcoinNotice.PA.02.18.14.docx >>

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Zuba Kathryn A  
**Sent:** Friday, February 14, 2014 1:30 PM



**To:** Hall Charles A  
**Cc:** Schindler Frederick W; Lucey Matthew D  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

I didn't see you on this list, but wanted to make sure that the appropriate PA people looked at this.

*Kathryn A. Zuba*

Deputy Associate Chief Counsel (P&A)  
tel. 202.317.5377  
fax 202.622.4914  
[kathryn.a.zuba@irs.counsel.treas.gov](mailto:kathryn.a.zuba@irs.counsel.treas.gov)

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**From:** Fahey Douglas A

**Sent:** Friday, February 14, 2014 1:13 PM

**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Subject:** Greensheet Circulation - Notice on Virtual Currencies

#### EXPEDITED REVIEW REQUESTED

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<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey  
**NEW PHONE 202-317-4619**

## Griffin Adrienne E

---

**From:** McClanahan Patricia  
**Sent:** Friday, February 14, 2014 2:51 PM  
**To:** Fahey Douglas A  
**Cc:** McClanahan Patricia  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi, Doug, I glanced at this draft notice over my lunch, just out of curiosity. Fun project! I noticed one point that I believe

(b)(5)  
(b)(5)

Anyway, thought I'd pass along this comment. Hope you have a great long weekend! Patti

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 14, 2014 1:13 PM  
**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
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Doug Fahey  
**NEW PHONE 202-317-4619**

## Griffin Adrienne E

---

**From:** Tackney Stephen B  
**Sent:** Wednesday, February 19, 2014 2:52 PM  
**To:** Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Fahey Douglas A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

The sentence below in Section 3 Scope

(b)(5)

(b)(5)

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**From:** Welsh Donna J  
**Sent:** Wednesday, February 19, 2014 2:46 PM  
**To:** Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Fahey Douglas A; Welsh Donna J  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 14, 2014 1:13 PM  
**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Greensheet Circulation - Notice on Virtual Currencies

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Doug Fahey

**NEW PHONE 202-317-4619**

**Griffin Adrienne E**

---

**From:** Prasad Girish  
**Sent:** Thursday, February 20, 2014 1:28 PM  
**To:** Hall Charles A; Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi Chuck,

Adrienne and I think

(b)(5)

(b)(5)

Let us know if you'd like to discuss.

Thanks.

---

**From:** Hall Charles A  
**Sent:** Thursday, February 20, 2014 11:24 AM  
**To:** Griffin Adrienne E; Prasad Girish  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Girish/Adrienne,

Do you have any thoughts about Patty McClanahan's comments?

Thanks.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 18, 2014 1:03 PM

**To:** Hall Charles A  
**Cc:** Cottrell Mark E; Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Thanks, will do. Also, I received the attached e-mail from Patty McClanahan regarding the information reporting Q&As. Please let me know whether you agree with her and if any revisions need to be made.

<< Message: RE: Greensheet Circulation - Notice on Virtual Currencies >>

Doug Fahey  
**NEW PHONE 202-317-4619**

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**From:** Hall Charles A  
**Sent:** Tuesday, February 18, 2014 12:16 PM  
**To:** Fahey Douglas A  
**Cc:** Cottrell Mark E; Prasad Girish; Griffin Adrienne E  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Doug, PA has two comments (incorporated in the attached and set forth below).

First, the language in red below should be added to  (b)(5)

(b)(5)

Let me know if you have any questions. Thanks.

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Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

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**From:** Zuba Kathryn A  
**Sent:** Friday, February 14, 2014 1:30 PM  
**To:** Hall Charles A  
**Cc:** Schindler Frederick W; Lucey Matthew D  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

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*Kathryn A. Zuba*  
Deputy Associate Chief Counsel (P&A)

tel. 202.317.5377  
fax 202.622.4914  
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**From:** Fahey Douglas A

**Sent:** Friday, February 14, 2014 1:13 PM

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**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

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Doug Fahey  
**NEW PHONE 202-317-4619**

## Griffin Adrienne E

---

**From:** Fahey Douglas A  
**Sent:** Thursday, February 20, 2014 3:38 PM  
**To:** Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Burns Gregory  
**Subject:** Virtual currency effective date  
**Importance:** High

We received a comment from one of the greensheet recipients asking for clarification of the effective date provision. In the greensheet draft, that section reads:

(b)(5)

Doug Fahey  
NEW PHONE 202-317-4619

---

**From:** Welsh Donna J  
**Sent:** Wednesday, February 19, 2014 2:46 PM  
**To:** Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Fahey Douglas A; Welsh Donna J  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

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**From:** Fahey Douglas A  
**Sent:** Friday, February 14, 2014 1:13 PM  
**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet;



Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

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Doug Fahey

**NEW PHONE 202-317-4619**

## Griffin Adrienne E

---

**From:** Hall Charles A  
**Sent:** Thursday, February 20, 2014 4:30 PM  
**To:** Fahey Douglas A  
**Cc:** Cottrell Mark E; Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Virtual currency effective date

Doug,

PA is in agreement with this change.

Thanks,

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Fahey Douglas A  
**Sent:** Thursday, February 20, 2014 3:38 PM  
**To:** Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Burns Gregory  
**Subject:** Virtual currency effective date  
**Importance:** High

We received a comment from one of the greensheet recipients asking for clarification of the effective date provision. In the greensheet draft, that section reads:

(b)(5)

I wanted to see if we have consensus on our proposed revision within our working group before sharing this with Treasury. If at all possible, please let me know your comments, edits, etc. no later than noon tomorrow. Thanks.

Doug Fahey  
NEW PHONE 202-317-4619

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**From:** Welsh Donna J

**Sent:** Wednesday, February 19, 2014 2:46 PM

**To:** Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqai Keith A; Ronk Alice L; Fahey Douglas A; Welsh Donna J

**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

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**Sent:** Friday, February 14, 2014 1:13 PM

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**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

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Doug Fahey  
NEW PHONE 202-317-4619

## Griffin Adrienne E

---

**From:** Tackney Stephen B  
**Sent:** Thursday, February 20, 2014 5:25 PM  
**To:** Fahey Douglas A; Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aquí Keith A; Ronk Alice L; Burns Gregory  
**Subject:** RE: Virtual currency effective date

(b)(5)

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**To:** Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aquí Keith A; Ronk Alice L; Burns Gregory  
**Subject:** Virtual currency effective date  
**Importance:** High

We received a comment from one of the greensheet recipients asking for clarification of the effective date provision. In the greensheet draft, that section reads:

### SECTION 5. EFFECTIVE DATE

(b)(5)

I wanted to see if we have consensus on our proposed revision within our working group before sharing this with Treasury. If at all possible, please let me know your comments, edits, etc. no later than noon tomorrow. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

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**From:** Welsh Donna J

**Sent:** Wednesday, February 19, 2014 2:46 PM

**To:** Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqai Keith A; Ronk Alice L; Fahey Douglas A; Welsh Donna J

**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

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**From:** Fahey Douglas A

**Sent:** Friday, February 14, 2014 1:13 PM

**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

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Doug Fahey

**NEW PHONE 202-317-4619**

## Griffin Adrienne E

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 21, 2014 11:01 AM  
**To:** Prasad Girish  
**Cc:** Cottrell Mark E; Hall Charles A; Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I understood [REDACTED]

(b)(5)

(b)(5)

I think [REDACTED]

(b)(5)

(b)(5)



TAS comment's  
on Greensheet C...

Doug Fahey  
NEW PHONE 202-317-4619

---

**From:** Prasad Girish  
**Sent:** Thursday, February 20, 2014 4:51 PM  
**To:** Fahey Douglas A  
**Cc:** Cottrell Mark E; Hall Charles A; Griffin Adrienne E  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Hi Doug,

We think [REDACTED]

(b)(5)

(b)(5)

Let us know if you have any questions.

Girish Prasad  
Attorney  
IRS Chief Counsel  
Procedure & Administration, Br. 5  
(202) 317-5429

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 18, 2014 1:03 PM  
**To:** Hall Charles A  
**Cc:** Cottrell Mark E; Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

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Doug Fahey  
**NEW PHONE 202-317-4619**

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**From:** Hall Charles A  
**Sent:** Tuesday, February 18, 2014 12:16 PM  
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**Cc:** Cottrell Mark E; Prasad Girish; Griffin Adrienne E  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Doug, PA has two comments (incorporated in the attached and set forth below).

First, the language in red below should be added to  (b)(5)

 (b)(5)

Second, in Section 6, Drafting Information, please change the contact number for Adrienne to 202-317-6845, which is the PA branch 1 number. The number currently listed is her direct dial number, which should not go out in the Notice.

Let me know if you have any questions. Thanks.

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Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel

CC:PA:1  
(202) 317-5134

---

**From:** Zuba Kathryn A  
**Sent:** Friday, February 14, 2014 1:30 PM  
**To:** Hall Charles A  
**Cc:** Schindler Frederick W; Lucey Matthew D  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

I didn't see you on this list, but wanted to make sure that the appropriate PA people looked at this.

*Kathryn A. Zuba*  
Deputy Associate Chief Counsel (P&A)  
tel. 202.317.5377  
fax 202.622.4914  
[kathryn.a.zuba@irs.counsel.treas.gov](mailto:kathryn.a.zuba@irs.counsel.treas.gov)

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 14, 2014 1:13 PM  
**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Greensheet Circulation - Notice on Virtual Currencies

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<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey  
**NEW PHONE 202-317-4619**



## Griffin Adrienne E

---

**From:** Feldman Janice R  
**Sent:** Wednesday, February 19, 2014 3:34 PM  
**To:** Fahey Douglas A  
**Cc:** Wall Judith M; Lopresti Eric R  
**Subject:** TAS comment's on Greensheet Circulation - Notice on Virtual Currencies

Doug,

We have reviewed the draft guidance on behalf of our office, and we have no comments. Eric Lopresti, a senior advisor to the NTA, however, has proposed some edits and comments. Please see his email below. If you would like to discuss TAS's comments, please contact Eric directly. His phone numbers are listed below.

Best regards, Janice.

Janice R. Feldman  
Office of Chief Counsel  
Technical Advisor to the Special Counsel, NTA  
CC:NTA  
Telephone:(202) 317-4134

---

**From:** Lopresti Eric R [mailto:Eric.R.Lopresti@irs.gov]  
**Sent:** Wednesday, February 19, 2014 7:01 AM  
**To:** Wall Judith M; Olson Nina E  
**Cc:** Feldman Janice R  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi Judy,  
Attached and below please find my comments. Thank you for the opportunity to comment.

Eric LoPresti  
Senior Attorney Advisor to the National Taxpayer Advocate  
202.317.3046 Desk  
202.384.8609 Mobile  
202.927.3365 Fax

1.

(b)(5)

2.

3.

4.

5.

6.

7.



Bitcoin Notice  
2-14-14 - erl c...

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**From:** Fahey Douglas A

**Sent:** Friday, February 14, 2014 1:13 PM

**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Subject:** Greensheet Circulation - Notice on Virtual Currencies

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Doug Fahey

**NEW PHONE 202-317-4619**

**Griffin Adrienne E**

---

**From:** Griffin Adrienne E  
**Sent:** Friday, February 21, 2014 1:40 PM  
**To:** Prasad Girish  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Thanks. Yes, I agree with what you are saying

(b)(5)

(b)(5)

**Adrienne Griffin**

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
202-317-5155

---

**From:** Prasad Girish  
**Sent:** Friday, February 21, 2014 1:28 PM  
**To:** Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Thanks, Adrienne.

(b)(5)

I'll send Mark our thoughts now.

---

**From:** Griffin Adrienne E  
**Sent:** Friday, February 21, 2014 1:09 PM  
**To:** Prasad Girish  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi Girish --

Sorry about the delay. I do think

(b)(5)

(b)(5)

If you want you can send to Mark, and I can remind him later this afternoon if we don't hear before you need to leave. He has been opening his emails today on my other case with him, which is a good sign.

Thanks,  
Adrienne

**Adrienne Griffin**

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
202-317-5155

---

**From:** Prasad Girish  
**Sent:** Friday, February 21, 2014 12:58 PM  
**To:** Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi Adrienne – let me know when you've had a chance to look at this; I have to catch a bus today so I'm signing off around 3:45. Hopefully catching Mark won't be too difficult.

---

**From:** Prasad Girish  
**Sent:** Friday, February 21, 2014 11:19 AM  
**To:** Griffin Adrienne E  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Hi Adrienne -

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 21, 2014 11:01 AM  
**To:** Prasad Girish

**Cc:** Cottrell Mark E; Hall Charles A; Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I understood [REDACTED]

(b)(5)

(b)(5)

I think [REDACTED]

(b)(5)

(b)(5)

<< Message: TAS comment's on Greensheet Circulation - Notice on Virtual Currencies >>

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Prasad Girish  
**Sent:** Thursday, February 20, 2014 4:51 PM  
**To:** Fahey Douglas A  
**Cc:** Cottrell Mark E; Hall Charles A; Griffin Adrienne E  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Hi Doug,

We think [REDACTED]

(b)(5)

(b)(5)

Let us know if you have any questions.

Girish Prasad  
Attorney  
IRS Chief Counsel  
Procedure & Administration, Br. 5  
(202) 317-5429

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 18, 2014 1:03 PM  
**To:** Hall Charles A  
**Cc:** Cottrell Mark E; Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Thanks, will do. Also, I received the attached e-mail from Patty McClanahan regarding the information reporting Q&As. Please let me know whether you agree with her and if any revisions need to be made.

<< Message: RE: Greensheet Circulation - Notice on Virtual Currencies >>

Doug Fahey  
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**From:** Hall Charles A  
**Sent:** Tuesday, February 18, 2014 12:16 PM  
**To:** Fahey Douglas A  
**Cc:** Cottrell Mark E; Prasad Girish; Griffin Adrienne E  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Doug, PA has two comments (incorporated in the attached and set forth below).

First, the language in red below should be added to  (b)(5)

Second, in Section 6, Drafting Information, please change the contact number for Adrienne to 202-317-6845, which is the PA branch 1 number. The number currently listed is her direct dial number, which should not go out in the Notice.

Let me know if you have any questions. Thanks.

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Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
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**Cc:** Schindler Frederick W; Lucey Matthew D  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

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Doug Fahey

**NEW PHONE 202-317-4619**



**Griffin Adrienne E**

---

**From:** Prasad Girish  
**Sent:** Friday, February 21, 2014 1:41 PM  
**To:** Cottrell Mark E  
**Cc:** Griffin Adrienne E; Hall Charles A  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Hi Mark –

[Redacted] (b)(5)

As an FYI, I'm leaving to catch a bus around 3:45; if you don't get to this before then, Adrienne can respond to Doug (if you agree with our recommendations).

Thanks.

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 21, 2014 11:01 AM  
**To:** Prasad Girish  
**Cc:** Cottrell Mark E; Hall Charles A; Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I understood [Redacted] (b)(5)

[Redacted] (b)(5)

I think [Redacted] (b)(5)

[Redacted] (b)(5)

<< Message: TAS comment's on Greensheet Circulation - Notice on Virtual Currencies >>

Doug Fahey  
NEW PHONE 202-317-4619

---

**From:** Prasad Girish  
**Sent:** Thursday, February 20, 2014 4:51 PM  
**To:** Fahey Douglas A  
**Cc:** Cottrell Mark E; Hall Charles A; Griffin Adrienne E  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Hi Doug,

We think

(b)(5)

(b)(5)

Let us know if you have any questions.

Girish Prasad  
Attorney  
IRS Chief Counsel  
Procedure & Administration, Br. 5  
(202) 317-5429

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**From:** Fahey Douglas A  
**Sent:** Tuesday, February 18, 2014 1:03 PM  
**To:** Hall Charles A  
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Let me know if you have any questions. Thanks.

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Senior Technician Reviewer  
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**Sent:** Friday, February 14, 2014 1:30 PM  
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**Cc:** Schindler Frederick W; Lucey Matthew D  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

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**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

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Doug Fahey

**NEW PHONE 202-317-4619**

## Griffin Adrienne E

---

**From:** Prasad Girish  
**Sent:** Friday, February 21, 2014 2:04 PM  
**To:** Cottrell Mark E  
**Cc:** Griffin Adrienne E; Hall Charles A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

[REDACTED] (b)(5)  
[REDACTED] If we're okay with the response below, I'll send it on to Doug. (b)(5)

Thanks for the quick response.

---

**From:** Cottrell Mark E  
**Sent:** Friday, February 21, 2014 1:57 PM  
**To:** Prasad Girish  
**Cc:** Griffin Adrienne E; Hall Charles A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

[REDACTED] (b)(5)

---

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(b)(5)

(b)(5)

I think

(b)(5)

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Doug Fahey  
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Doug Fahey  
**NEW PHONE 202-317-4619**



## Griffin Adrienne E

---

**From:** Prasad Girish  
**Sent:** Friday, February 21, 2014 2:42 PM  
**To:** Fahey Douglas A  
**Cc:** Cottrell Mark E; Griffin Adrienne E; Hall Charles A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi Doug,

[Redacted] (b)(5)

Thanks.

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 21, 2014 11:01 AM  
**To:** Prasad Girish  
**Cc:** Cottrell Mark E; Hall Charles A; Griffin Adrienne E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

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<< Message: TAS comment's on Greensheet Circulation - Notice on Virtual Currencies >>

Doug Fahey  
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<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey

**NEW PHONE 202-317-4619**

**Griffin Adrienne E**

**From:** Hall Charles A  
**Sent:** Monday, February 24, 2014 9:02 AM  
**To:** Griffin Adrienne E; Prasad Girish  
**Subject:** FW: Virtual currency notice effective date

FYI.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Friday, February 21, 2014 4:32 PM  
**To:** Cottrell Mark E; Hall Charles A  
**Subject:** FW: Virtual currency notice effective date

Please see the chain below.

(b)(5)  
(b)(5)

**From:** Welsh Donna J [mailto:Donna.J.Welsh@irsounsel.treas.gov]  
**Sent:** Friday, February 21, 2014 4:19 PM  
**To:** Hodes, Rochelle; Hall, Charles A; Cottrell, Mark E  
**Cc:** Keyso Jr., Andrew J; Aqui, Keith A; Fahey, Douglas A; Walli, Karl; Jenn, Brian  
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Chuck Hall/Mark Cotrell.

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**Sent:** Friday, February 21, 2014 4:18 PM  
**To:** Welsh Donna J; Hall Charles A; Cottrell Mark E  
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I think these questions should be directed to PA, not ITA.

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Friday, February 21, 2014 4:04 PM  
**To:** Welsh Donna J; Fahey Douglas A; Karl.Walli@treasury.gov; Jenn Brian

Then why is information reporting special?

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[Redacted]

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**Subject:** Virtual currency notice effective date  
**Importance:** High

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SECTION 5. EFFECTIVE DATE

[Redacted]

(b)(5)

Please let us know your thoughts. Thanks.

Doug Fahey  
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## Griffin Adrienne E

---

**From:** Prasad Girish  
**Sent:** Monday, February 24, 2014 10:05 AM  
**To:** Griffin Adrienne E  
**Subject:** RE: Virtual currency notice effective date

Thanks, Adrienne. I agree [REDACTED] (b)(5)

[REDACTED] (b)(5)  
[REDACTED] (b)(5)  
[REDACTED] I'll put our thoughts together and get something to Mark and Chuck.

Yes, 3:30 works for me. See you then.

---

**From:** Griffin Adrienne E  
**Sent:** Monday, February 24, 2014 9:56 AM  
**To:** Prasad Girish  
**Subject:** RE: Virtual currency notice effective date

Hi -- I was just typing an email to you. I agree [REDACTED] (b)(5)

[REDACTED] (b)(5)

I think it is a good idea to meet about the briefing. Unfortunately I will be working from home tomorrow because my furnace issue is not yet resolved, and they have to come back tomorrow morning. Do you want to meet this afternoon instead? I have a 2:30 meeting, but could meet at 3:30?

Thanks!  
Adrienne

**Adrienne Griffin**

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
202-317-5155

---

**From:** Prasad Girish  
**Sent:** Monday, February 24, 2014 9:40 AM  
**To:** Griffin Adrienne E  
**Subject:** FW: Virtual currency notice effective date

Hi Adrienne -



I think there are two items to consider.

(b)(5)

(b)(5)

Hope you had a nice weekend.

Also, let me know if you'd like to get together to discuss the briefing tomorrow (how to handle it, sequence of issues, etc.).

Thanks!

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FYI.

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Senior Technician Reviewer  
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Hi all -

We think

(b)(5)

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Thanks!

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**Cc:** Keyso Jr. Andrew J; Moriarty John P  
**Subject:** Virtual currency notice

Attached is a revised version of the draft notice that incorporates comments received on the greensheet circulation, adding them to that draft. Please review and let me know if anything was overlooked, screwed up etc. I've included comments about some of the more significant revisions, including a few with questions. Your thoughts on any of those comments are welcome. Based on an ACCI comment, I've also added an alternative version of Q&A-6. I know that is one of ITA's, but let me know if you have any reaction to that as well.

We're still shooting for release by the end of this week, and I would like to send the next draft to Treasury by COB today. I would appreciate receiving comments by then, if at all possible. Thanks.



Bitcoin Notice  
2-24-14.docx

Doug Fahey  
**NEW PHONE 202-317-4619**

**Griffin Adrienne E**

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Correct me if I'm wrong, but wasn't it ITA that suggested [REDACTED]

(b) (5)

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Senior Technician Reviewer  
Procedure & Administration  
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---

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Monday, February 24, 2014 1:40 PM  
**To:** Hall Charles A  
**Cc:** Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Virtual currency notice effective date

Ah yes, but my question was, [REDACTED]

(b) (5)

[REDACTED] (b) (5)

---

**From:** Hall Charles A [mailto:Charles.A.Hall@irs.counsel.treas.gov]  
**Sent:** Monday, February 24, 2014 1:27 PM  
**To:** Hodes, Rochelle  
**Cc:** Prasad, Girish K; Griffin, Adrienne E  
**Subject:** RE: Virtual currency notice effective date

[REDACTED] (b) (5)

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Monday, February 24, 2014 12:16 PM  
**To:** Hall Charles A  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

**From:** Hall Charles A [mailto:Charles.A.Hall@irscounsel.treas.gov]  
**Sent:** Monday, February 24, 2014 10:51 AM  
**To:** Hodes, Rochelle  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Monday, February 24, 2014 9:55 AM  
**To:** Cottrell Mark E; Hall Charles A  
**Subject:** RE: Virtual currency notice effective date

Hey guys—what say you?

**From:** Hodes, Rochelle  
**Sent:** Friday, February 21, 2014 4:32 PM  
**To:** Cottrell, Mark E (mark.e.cottrell@irscounsel.treas.gov); Hall, Charles A (charles.a.hall@irscounsel.treas.gov)  
**Subject:** FW: Virtual currency notice effective date

Please see the chain below.

(b)(5)

(b)(5)

**From:** Welsh Donna J [mailto:Donna.J.Welsh@irscounsel.treas.gov]  
**Sent:** Friday, February 21, 2014 4:19 PM  
**To:** Hodes, Rochelle; Hall, Charles A; Cottrell, Mark E  
**Cc:** Keyso Jr., Andrew J; Aqui, Keith A; Fahey, Douglas A; Walli, Karl; Jenn, Brian  
**Subject:** RE: Virtual currency notice effective date

Chuck Hall/Mark Cotrell.

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Friday, February 21, 2014 4:18 PM  
**To:** Welsh Donna J; Hall Charles A; Cottrell Mark E  
**Cc:** Keyso Jr. Andrew J; Aqui Keith A; Fahey Douglas A; Karl.Walli@treasury.gov; Jenn Brian  
**Subject:** RE: Virtual currency notice effective date

Who should I direct the question to?



**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irscounsel.treas.gov>]  
**Sent:** Friday, February 21, 2014 4:16 PM  
**To:** Hodes, Rochelle; Hall, Charles A; Cottrell, Mark E  
**Cc:** Keyso Jr., Andrew J; Aquil, Keith A; Fahey, Douglas A; Walli, Karl; Jenn, Brian  
**Subject:** RE: Virtual currency notice effective date

I think these questions should be directed to PA, not ITA.

**From:** Rochelle.Hodes@treasury.gov [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Friday, February 21, 2014 4:04 PM  
**To:** Welsh Donna J; Fahey Douglas A; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Jenn Brian  
**Cc:** Keyso Jr. Andrew J; Aquil Keith A  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irscounsel.treas.gov>]  
**Sent:** Friday, February 21, 2014 3:58 PM  
**To:** Fahey, Douglas A; Hodes, Rochelle; Walli, Karl; Jenn, Brian  
**Cc:** Keyso Jr., Andrew J; Aquil, Keith A  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

**From:** Fahey Douglas A  
**Sent:** Friday, February 21, 2014 3:13 PM  
**To:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Jenn Brian  
**Cc:** Keyso Jr. Andrew J; Aquil Keith A; Welsh Donna J  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

Doug Fahey  
NEW PHONE 202-317-4619

**From:** Rochelle.Hodes@treasury.gov [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Friday, February 21, 2014 2:50 PM  
**To:** Fahey Douglas A; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Jenn Brian  
**Cc:** Keyso Jr. Andrew J; Aquil Keith A; Welsh Donna J  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irscounsel.treas.gov>]  
**Sent:** Friday, February 21, 2014 2:48 PM  
**To:** Hodes, Rochelle; Walli, Karl; Jenn, Brian

**Cc:** Keyso Jr., Andrew J; Aqui, Keith A; Welsh, Donna J

**Subject:** RE: Virtual currency notice effective date

(b)(5)

Doug Fahey

**NEW PHONE 202-317-4619**

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]

**Sent:** Friday, February 21, 2014 2:41 PM

**To:** Fahey Douglas A; Karl.Walli@treasury.gov; Jenn Brian

**Cc:** Keyso Jr. Andrew J; Aqui Keith A; Welsh Donna J

**Subject:** RE: Virtual currency notice effective date

(b)(5)

**From:** Fahey Douglas A [mailto:Douglas.A.Fahey@irscounsel.treas.gov]

**Sent:** Friday, February 21, 2014 2:40 PM

**To:** Hodes, Rochelle; Walli, Karl; Jenn, Brian

**Cc:** Keyso Jr., Andrew J; Aqui, Keith A; Welsh, Donna J

**Subject:** RE: Virtual currency notice effective date

(b)(5)

Doug Fahey

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**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]

**Sent:** Friday, February 21, 2014 2:04 PM

**To:** Fahey Douglas A; Karl.Walli@treasury.gov; Jenn Brian

**Cc:** Keyso Jr. Andrew J; Aqui Keith A; Welsh Donna J

**Subject:** RE: Virtual currency notice effective date

(b)(5)

**From:** Fahey Douglas A [mailto:Douglas.A.Fahey@irscounsel.treas.gov]

**Sent:** Friday, February 21, 2014 1:59 PM

**To:** Hodes, Rochelle; Walli, Karl; Jenn, Brian

**Cc:** Keyso Jr., Andrew J; Aqui, Keith A; Welsh, Donna J

**Subject:** Virtual currency notice effective date

**Importance:** High

We received a greensheet comment asking for clarification of the effective date provision. In the greensheet draft, that section reads:

(b)(5)

Please let us know your thoughts. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

## Griffin Adrienne E

---

**From:** Prasad Girish  
**Sent:** Monday, February 24, 2014 2:19 PM  
**To:** Hall Charles A; Griffin Adrienne E  
**Cc:** Cottrell Mark E  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

**From:** Hall Charles A  
**Sent:** Monday, February 24, 2014 2:00 PM  
**To:** Prasad Girish; Griffin Adrienne E  
**Cc:** Cottrell Mark E  
**Subject:** FW: Virtual currency notice effective date

(b)(5)

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

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**To:** Hall Charles A  
**Cc:** Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

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**Cc:** Prasad, Girish K; Griffin, Adrienne E  
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(b)(5)

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(b)(5)

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**Subject:** FW: Virtual currency notice effective date

(b)(5)

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**To:** Hodes, Rochelle; Hall, Charles A; Cottrell, Mark E  
**Cc:** Keyso Jr., Andrew J; Aqui, Keith A; Fahey, Douglas A; Walli, Karl; Jenn, Brian  
**Subject:** RE: Virtual currency notice effective date

Chuck Hall/Mark Cotrell.

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**Cc:** Keyso Jr. Andrew J; Aqui Keith A; Fahey Douglas A; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Jenn Brian  
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**Sent:** Friday, February 21, 2014 4:04 PM  
**To:** Welsh Donna J; Fahey Douglas A; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Jenn Brian  
**Cc:** Keyso Jr. Andrew J; Aqui Keith A  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

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(b)(5)

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**Sent:** Friday, February 21, 2014 3:13 PM  
**To:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Jenn Brian  
**Cc:** Keyso Jr. Andrew J; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

Doug Fahey  
NEW PHONE 202-317-4619

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Friday, February 21, 2014 2:50 PM  
**To:** Fahey Douglas A; Karl.Walli@treasury.gov; Jenn Brian  
**Cc:** Keyso Jr. Andrew J; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

**From:** Fahey Douglas A [mailto:Douglas.A.Fahey@irsounsel.treas.gov]  
**Sent:** Friday, February 21, 2014 2:48 PM  
**To:** Hodes, Rochelle; Walli, Karl; Jenn, Brian  
**Cc:** Keyso Jr., Andrew J; Aqui, Keith A; Welsh, Donna J  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

Doug Fahey  
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**Cc:** Keyso Jr., Andrew J; Aqui, Keith A; Welsh, Donna J  
**Subject:** RE: Virtual currency notice effective date

(b)(5)

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**Subject:** RE: Virtual currency notice effective date

(b)(5)

**From:** Fahey Douglas A [mailto:Douglas.A.Fahey@irsounsel.treas.gov]  
**Sent:** Friday, February 21, 2014 1:59 PM

**To:** Hodes, Rochelle; Walli, Karl; Jenn, Brian  
**Cc:** Keyso Jr., Andrew J; Aqui, Keith A; Welsh, Donna J  
**Subject:** Virtual currency notice effective date  
**Importance:** High

We received a greensheet comment asking for clarification of the effective date provision. .In the greensheet draft, that section reads:

(b)(5)

Please let us know your thoughts. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**



## Griffin Adrienne E

---

**From:** Prasad Girish  
**Sent:** Monday, February 24, 2014 4:01 PM  
**To:** Griffin Adrienne E  
**Subject:** FW: Virtual currency notice

Hi Adrienne,

I'm okay with [REDACTED] (b)(5)

[REDACTED] (b)(5)

Girish

---

**From:** Fahey Douglas A  
**Sent:** Monday, February 24, 2014 1:17 PM  
**To:** Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Burns Gregory; Berman Samuel; Milnes-Vasquez Marie C  
**Cc:** Keyso Jr. Andrew J; Moriarty John P  
**Subject:** Virtual currency notice

Attached is a revised version of the draft notice that incorporates comments received on the greensheet circulation, adding them to that draft. Please review and let me know if anything was overlooked, screwed up etc. I've included comments about some of the more significant revisions, including a few with questions. Your thoughts on any of those comments are welcome. Based on an ACCI comment, I've also added an alternative version of Q&A-6. I know that is one of ITA's, but let me know if you have any reaction to that as well.

We're still shooting for release by the end of this week, and I would like to send the next draft to Treasury by COB today. I would appreciate receiving comments by then, if at all possible. Thanks.



Bitcoin Notice  
2-24-14.docx

Doug Fahey  
**NEW PHONE 202-317-4619**

## Griffin Adrienne E

---

**From:** Hall Charles A  
**Sent:** Monday, February 24, 2014 5:21 PM  
**To:** Griffin Adrienne E  
**Cc:** Prasad Girish  
**Subject:** RE: Virtual currency notice

I'm on the phone with Rochelle right now. I'm fine with the change below. I'll forward you the email Rochelle sent and Doug's reply.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Griffin Adrienne E  
**Sent:** Monday, February 24, 2014 4:38 PM  
**To:** Hall Charles A  
**Cc:** Prasad Girish  
**Subject:** FW: Virtual currency notice

Chuck,

(b)(5)

Thanks,  
Adrienne

**Adrienne Griffin**

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
202-317-5155

---

**From:** Fahey Douglas A  
**Sent:** Monday, February 24, 2014 1:17 PM

**To:** Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Burns Gregory; Berman Samuel; Milnes-Vasquez Marie C  
**Cc:** Keyso Jr. Andrew J; Moriarty John P  
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<< File: Bitcoin Notice 2-24-14.docx >>

Doug Fahey  
**NEW PHONE 202-317-4619**

## Griffin Adrienne E

---

**From:** Griffin Adrienne E  
**Sent:** Monday, February 24, 2014 5:55 PM  
**To:** Fahey Douglas A  
**Cc:** Hall Charles A; Prasad Girish  
**Subject:** RE: Virtual currency notice

Doug,

We agree

(b)(5)

(b)(5)

(b)(5)

Thanks.

**Adrienne Griffin**

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
202-317-5155

---

**From:** Fahey Douglas A  
**Sent:** Monday, February 24, 2014 1:17 PM  
**To:** Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Burns Gregory; Berman Samuel; Milnes-Vasquez Marie C  
**Cc:** Keyso Jr. Andrew J; Moriarty John P  
**Subject:** Virtual currency notice

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<< File: Bitcoin Notice 2-24-14.docx >>

Doug Fahey  
**NEW PHONE 202-317-4619**

**Griffin Adrienne E**

---

**From:** Hall Charles A  
**Sent:** Tuesday, February 25, 2014 12:04 PM  
**To:** Fahey Douglas A  
**Cc:** Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Virtual currency notice

Doug, got your voice mail. When you called I was waiting for Drita to arrive for our meeting. She was delayed as she was talking to Andy. [REDACTED] (b)(5)  
[REDACTED] So I think that takes care of this issue. Let me know if you have (b)(5)  
anything further. Thanks.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 25, 2014 9:32 AM  
**To:** Griffin Adrienne E  
**Cc:** Hall Charles A; Prasad Girish  
**Subject:** RE: Virtual currency notice

Okay, thanks. I'll note that P&A is still considering the relief measure.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Griffin Adrienne E  
**Sent:** Monday, February 24, 2014 5:55 PM  
**To:** Fahey Douglas A  
**Cc:** Hall Charles A; Prasad Girish  
**Subject:** RE: Virtual currency notice

Doug,

We agree [REDACTED] (b)(5)  
[REDACTED] (b)(5)

Thanks.

**Adrienne Griffin**

CC:PA:01

1111 Constitution Ave, NW

Washington, DC 20224

202-317-5155

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**From:** Fahey Douglas A

**Sent:** Monday, February 24, 2014 1:17 PM

**To:** Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aquil Keith A; Ronk Alice L; Burns Gregory; Berman Samuel; Milnes-Vasquez Marie C

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<< File: Bitcoin Notice 2-24-14.docx >>

Doug Fahey

**NEW PHONE 202-317-4619**

**Griffin Adrienne E**

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 25, 2014 12:06 PM  
**To:** Hall Charles A  
**Cc:** Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Virtual currency notice

[REDACTED] (b)(5)

Doug Fahey  
NEW PHONE 202-317-4619

---

**From:** Hall Charles A  
**Sent:** Tuesday, February 25, 2014 12:04 PM  
**To:** Fahey Douglas A  
**Cc:** Prasad Girish; Griffin Adrienne E  
**Subject:** RE: Virtual currency notice

Doug, got your voice mail. When you called I was waiting for Drita to arrive for our meeting. She was delayed as she was talking to Andy. [REDACTED] (b)(5)

[REDACTED] So I think that takes care of this issue. Let me know if you have anything further. Thanks. (b)(5)

Charles A. Hall  
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Procedure & Administration  
IRS, Office of Chief Counsel  
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**Subject:** RE: Virtual currency notice

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Doug Fahey  
NEW PHONE 202-317-4619

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**Sent:** Monday, February 24, 2014 5:55 PM  
**To:** Fahey Douglas A

**Cc:** Hall Charles A; Prasad Girish  
**Subject:** RE: Virtual currency notice

Doug,

We agree

(b)(5)

(b)(5)

(b)(5)

Thanks.

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Doug Fahey  
NEW PHONE 202-317-4619



## Griffin Adrienne E

---

**From:** Hall Charles A  
**Sent:** Wednesday, February 26, 2014 10:12 AM  
**To:** Prasad Girish; Griffin Adrienne E  
**Cc:** Cottrell Mark E  
**Subject:** FW: penalty relief

Here are the emails on penalty relief and the bitcoin notice that I mentioned. I haven't read this at all but wanted you all to see.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 26, 2014 10:01 AM  
**To:** Berman Samuel  
**Cc:** Gillen Duane M; Wilson Joseph L; Ronk Alice L; Mattonen Kimberly; Travers Terry C; Hall Charles A; Welsh Donna J  
**Subject:** RE: penalty relief

(b)(5)

Duane and Joe, thanks for the prompt reacts.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Berman Samuel  
**Sent:** Wednesday, February 26, 2014 9:48 AM  
**To:** Fahey Douglas A  
**Cc:** Gillen Duane M; Wilson Joseph L; Ronk Alice L; Mattonen Kimberly; Travers Terry C; Hall Charles A; Welsh Donna J  
**Subject:** RE: penalty relief

Doug,

(b)(5)

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368

Fax: (240) 613-6341

**From:** Gillen Duane M [<mailto:Duane.Gillen@irs.gov>]

**Sent:** Wednesday, February 26, 2014 8:53 AM

**To:** Wilson Joseph L; Berman Samuel

**Cc:** Ronk Alice L

**Subject:** RE: penalty relief

Sam I agree with Joe. [REDACTED]

(b)(5)

(b)(5)

*Duane Gillen*

Phone 240-613-5488

Cell Phone 202-641-8548

SB/SE Director Abusive Transactions and Technical Issues

**From:** Wilson Joseph L

**Sent:** Wednesday, February 26, 2014 8:16 AM

**To:** Berman Samuel; Gillen Duane M

**Cc:** Ronk Alice L; Mattonen Kimberly; Fahey Douglas A; Travers Terry C; Hall Charles A; Welsh Donna J

**Subject:** RE: penalty relief

Sam

Just my 2 cents worth. [REDACTED]

(b)(5)

(b)(5)

Joe

*Joseph L. Wilson*

*Advisor to Commissioner, SBSE*

*Phone/VMS: 404.338.7088*

**From:** Berman Samuel [<mailto:Samuel.Berman@irs.counsel.treas.gov>]

**Sent:** Tuesday, February 25, 2014 5:46 PM

**To:** Gillen Duane M

**Cc:** Wilson Joseph L; Ronk Alice L; Mattonen Kimberly; Fahey Douglas A; Travers Terry C; Hall Charles A; Welsh Donna J

**Subject:** FW: penalty relief

Duane,

(b)(5)

(b)(5)

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 25, 2014 5:25 PM  
**To:** Ronk Alice L; Berman Samuel  
**Cc:** Aqui Keith A; Welsh Donna J; Milnes-Vasquez Marie C  
**Subject:** FW: penalty relief

(b)(5)

Thanks for your assistance. We are still shooting for release by the end of this week, so an expedited response would be appreciated.

Doug Fahey  
**NEW PHONE 202-317-4619**

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 25, 2014 2:04 PM  
**To:** 'Rochelle.Hodes@treasury.gov'  
**Subject:** RE: penalty relief

(b)(5)

Doug Fahey  
**NEW PHONE 202-317-4619**

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Tuesday, February 25, 2014 1:52 PM  
**To:** Fahey Douglas A  
**Subject:** RE: penalty relief

(b)(5)

## Griffin Adrienne E

---

**From:** Cottrell Mark E  
**Sent:** Tuesday, July 16, 2013 1:05 PM  
**To:** Hall Charles A; Prasad Girish; Griffin Adrienne E  
**Subject:** FW: Request for Guidance on Transactions Involving Virtual Currencies  
**Attachments:** Questions about Virtual Currencies.doc  
  
**Categories:** NUUU

FYI.

---

**From:** Berman Samuel  
**Sent:** Tuesday, July 16, 2013 12:03 PM  
**To:** TSS4510  
**Cc:** Welsh Donna J; Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L  
**Subject:** Request for Guidance on Transactions Involving Virtual Currencies

Please assign to Income Tax and Accounting as the primary office, with assistance to be provided, as needed, by Procedure and Administration, International and Financial Institutions and Products.

This is a request for assistance in drafting informal guidance, based on existing guidance, on transactions involving virtual currencies. Initially, the guidance is likely to be in the form of a posting of a series of questions and answers on irs.gov. Attached is a list of questions with respect to virtual currency transactions. We request assistance in drafting answers to these questions that would be helpful to average taxpayers in understanding their tax reporting obligations with respect to such transactions. References to existing publications and published guidance would be helpful. The goal is to provide general guidance that would meet the needs of most taxpayers who engage in virtual currency transactions, especially when they exchange virtual currencies for cash or for goods or services. Please inform us if any of the questions cannot be answered based on current guidance.

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Larsen Eric R [<mailto:eric.larsen@irs.gov>]  
**Sent:** Monday, July 15, 2013 9:06 AM  
**To:** Ronk Alice L  
**Cc:** Berman Samuel; Powell-Stringer Portia E; Taylor James E  
**Subject:** Development of examples for IRS.gov in response to GAO audit

Hi Alice,

Attached are the

(b)(5)

(b)(5)

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irscounsel.treas.gov>]  
**Sent:** Tuesday, February 25, 2014 1:49 PM  
**To:** Hodes, Rochelle  
**Subject:** RE: penalty relief

Okay, I'll see what people think.

Doug Fahey  
NEW PHONE 202-317-4619

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Tuesday, February 25, 2014 1:48 PM  
**To:** Fahey Douglas A  
**Subject:** RE: penalty relief

[REDACTED]

(b)(5)

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irscounsel.treas.gov>]  
**Sent:** Tuesday, February 25, 2014 1:47 PM  
**To:** Hodes, Rochelle  
**Subject:** RE: penalty relief

[REDACTED]

(b)(5)

Doug Fahey  
NEW PHONE 202-317-4619

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Tuesday, February 25, 2014 1:37 PM  
**To:** Fahey Douglas A  
**Subject:** penalty relief

Can you please work with folks in your building to see whether the following would be acceptable and if so how  
might say it: tl

[REDACTED]

(b)(5)

(b)(5)

[REDACTED] Thanks.

(b)(5)

Rochelle Hodes  
Office of Tax Policy  
Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, D.C. 20220  
Phone 202.622.1787  
[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

## Griffin Adrienne E

---

**From:** Hall Charles A  
**Sent:** Wednesday, February 26, 2014 10:17 AM  
**To:** Prasad Girish; Griffin Adrienne E  
**Cc:** Cottrell Mark E  
**Subject:** FW: Help: Bitcoin notice effective date/penalty relief

FYI.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Tonuzi Drita  
**Sent:** Wednesday, February 26, 2014 10:16 AM  
**To:** Rochelle.Hodes@treasury.gov  
**Cc:** Keyso Jr. Andrew J; Zarlenga Lisa (OTP); Keyso Jr. Andrew J; Zuba Kathryn A; Hall Charles A; Tonuzi Drita  
**Subject:** RE: Help: Bitcoin notice effective date/penalty relief

(b)(5)

Thanks, Drita

(b)(5)

---

**From:** Rochelle.Hodes@treasury.gov [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, February 26, 2014 9:09 AM  
**To:** Tonuzi Drita; Zuba Kathryn A  
**Cc:** Keyso Jr. Andrew J; Zarlenga Lisa (OTP)  
**Subject:** Help: Bitcoin notice effective date/penalty relief

Drita/Kathy: can you please assist here

(b)(5)

(b)(5)

Thanks so much for your help.

**From:** Milnes-Vasquez Marie C [<mailto:Marie.C.Milnes-Vasquez@irsounsel.treas.gov>]  
**Sent:** Wednesday, February 26, 2014 8:53 AM  
**To:** Hodes, Rochelle; Fahey, Douglas A  
**Cc:** Aqui, Keith A; Welsh, Donna J; Keyso Jr., Andrew J  
**Subject:** RE: penalty relief

Hi Rochelle –

(b)(5)

Thanks --

**Marie**  
202-317-4105

**From:** Rochelle.Hodes@treasury.gov [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Tuesday, February 25, 2014 6:17 PM  
**To:** Fahey Douglas A  
**Cc:** Aqui Keith A; Welsh Donna J; Milnes-Vasquez Marie C; Keyso Jr. Andrew J  
**Subject:** RE: penalty relief

Oh no. I was not suggesting

(b)(5)

(b)(5)

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irsounsel.treas.gov>]  
**Sent:** Tuesday, February 25, 2014 5:32 PM  
**To:** Hodes, Rochelle  
**Cc:** Aqui, Keith A; Welsh, Donna J; Milnes Vasquez, Marie C  
**Subject:** FW: penalty relief

Rochelle, I think

(b)(5)

(b)(5)

Doug Fahey  
NEW PHONE 202-317-4619

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 25, 2014 2:04 PM

**To:** 'Rochelle.Hodes@treasury.gov'

**Subject:** RE: penalty relief

(b)(5)

Doug Fahey

**NEW PHONE 202-317-4619**

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]

**Sent:** Tuesday, February 25, 2014 1:52 PM

**To:** Fahey Douglas A

**Subject:** RE: penalty relief

(b)(5)

**From:** Fahey Douglas A [mailto:Douglas.A.Fahey@irscounsel.treas.gov]

**Sent:** Tuesday, February 25, 2014 1:49 PM

**To:** Hodes, Rochelle

**Subject:** RE: penalty relief

Okay, I'll see what people think.

Doug Fahey

**NEW PHONE 202-317-4619**

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]

**Sent:** Tuesday, February 25, 2014 1:48 PM

**To:** Fahey Douglas A

**Subject:** RE: penalty relief

(b)(5)

**From:** Fahey Douglas A [mailto:Douglas.A.Fahey@irscounsel.treas.gov]

**Sent:** Tuesday, February 25, 2014 1:47 PM

**To:** Hodes, Rochelle

**Subject:** RE: penalty relief

(b)(5)

Doug Fahey

**NEW PHONE 202-317-4619**

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]

**Sent:** Tuesday, February 25, 2014 1:37 PM

**To:** Fahey Douglas A

**Subject:** penalty relief



Can you please work with folks in your building to see whether the following would be acceptable and if so how you might say it:

(b)(5)

(b)(5)

Thanks.

(b)(5)

Rochelle Hodes  
Office of Tax Policy  
Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, D.C. 20220  
Phone 202.622.1787  
[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

## **Griffin Adrienne E**

---

**From:** Hall Charles A  
**Sent:** Wednesday, February 26, 2014 10:25 AM  
**To:** Prasad Girish; Griffin Adrienne E  
**Subject:** FW: penalty relief

I'm coming around to discuss.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Berman Samuel  
**Sent:** Wednesday, February 26, 2014 10:18 AM  
**To:** Fahey Douglas A  
**Cc:** Gillen Duane M; Wilson Joseph L; Ronk Alice L; Mattonen Kimberly; Travers Terry C; Hall Charles A; Welsh Donna J  
**Subject:** RE: penalty relief

Doug,

[Redacted]

(b)(5)

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 26, 2014 10:01 AM  
**To:** Berman Samuel  
**Cc:** Gillen Duane M; Wilson Joseph L; Ronk Alice L; Mattonen Kimberly; Travers Terry C; Hall Charles A; Welsh Donna J  
**Subject:** RE: penalty relief

[Redacted]

(b)(5)

Duane and Joe, thanks for the prompt reacts.

Doug Fahey  
NEW PHONE 202-317-4619

---

**From:** Berman Samuel  
**Sent:** Wednesday, February 26, 2014 9:48 AM  
**To:** Fahey Douglas A  
**Cc:** Gillen Duane M; Wilson Joseph L; Ronk Alice L; Mattonen Kimberly; Travers Terry C; Hall Charles A; Welsh Donna J  
**Subject:** RE: penalty relief

Doug,

SB/SE would like to see the draft language on penalty relief. [REDACTED] (b)(5)

[REDACTED] (b)(5)

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Gillen Duane M [<mailto:Duane.Gillen@irs.gov>]  
**Sent:** Wednesday, February 26, 2014 8:53 AM  
**To:** Wilson Joseph L; Berman Samuel  
**Cc:** Ronk Alice L  
**Subject:** RE: penalty relief

Sam I agree with Joe. [REDACTED] (b)(5)

[REDACTED] (b)(5)

*Duane Gillen*  
Phone 240-613-5488  
Cell Phone 202-641-8548  
SB/SE Director Abusive Transactions and Technical Issues

---

**From:** Wilson Joseph L  
**Sent:** Wednesday, February 26, 2014 8:16 AM  
**To:** Berman Samuel; Gillen Duane M  
**Cc:** Ronk Alice L; Mattonen Kimberly; Fahey Douglas A; Travers Terry C; Hall Charles A; Welsh Donna J  
**Subject:** RE: penalty relief

Sam

Just my 2 cents worth. [REDACTED] (b)(5)

[REDACTED] (b)(5)

Joe

*Joseph L. Wilson*  
*Advisor to Commissioner, SBSE*  
*Phone/VMS: 404.338.7088*

---

**From:** Berman Samuel [mailto:Samuel.Berman@irscounsel.treas.gov]  
**Sent:** Tuesday, February 25, 2014 5:46 PM  
**To:** Gillen Duane M  
**Cc:** Wilson Joseph L; Ronk Alice L; Mattonen Kimberly; Fahey Douglas A; Travers Terry C; Hall Charles A; Welsh Donna J  
**Subject:** FW: penalty relief

Duane,

(b)(5)

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 25, 2014 5:25 PM  
**To:** Ronk Alice L; Berman Samuel  
**Cc:** Aquil Keith A; Welsh Donna J; Milnes-Vasquez Marie C  
**Subject:** FW: penalty relief

Alice and Sam – See e-mails below.

(b)(5)

(b)(5)

Thanks for your assistance. We are still shooting for release by the end of this week, so an expedited response would be appreciated.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 25, 2014 2:04 PM

## Griffin Adrienne E

---

**From:** Hall Charles A  
**Sent:** Wednesday, February 26, 2014 12:04 PM  
**To:** Fahey Douglas A  
**Cc:** Prasad Girish; Griffin Adrienne E; Cottrell Mark E  
**Subject:** RE: Help: Bitcoin notice effective date/penalty relief

Works for me. Thanks.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 26, 2014 12:01 PM  
**To:** Hall Charles A  
**Cc:** Prasad Girish; Griffin Adrienne E; Cottrell Mark E; Zuba Kathryn A; Tonuzi Drita  
**Subject:** RE: Help: Bitcoin notice effective date/penalty relief

I have two suggested edits in green below. Okay?

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Hall Charles A  
**Sent:** Wednesday, February 26, 2014 11:21 AM  
**To:** Fahey Douglas A  
**Cc:** Prasad Girish; Griffin Adrienne E; Cottrell Mark E; Zuba Kathryn A; Tonuzi Drita  
**Subject:** RE: Help: Bitcoin notice effective date/penalty relief

Doug,

(b)(5)

Charles A. Hall  
Senior Technician Reviewer

Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 26, 2014 11:01 AM  
**To:** Hall Charles A  
**Cc:** Prasad Girish; Griffin Adrienne E; Cottrell Mark E  
**Subject:** RE: Help: Bitcoin notice effective date/penalty relief

Okay, thanks.

(b) (5)

Doug Fahey  
NEW PHONE 202-317-4619

**From:** Hall Charles A  
**Sent:** Wednesday, February 26, 2014 10:36 AM  
**To:** Fahey Douglas A  
**Cc:** Prasad Girish; Griffin Adrienne E; Cottrell Mark E  
**Subject:** FW: Help: Bitcoin notice effective date/penalty relief

Doug,

PA is working on some language to include the in the Notice to meet the stated goals below. We'll have something to you as soon as we can.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

**From:** Tonuzi Drita  
**Sent:** Wednesday, February 26, 2014 10:16 AM  
**To:** Rochelle.Hodes@treasury.gov  
**Cc:** Keyso Jr. Andrew J; Zarlenga Lisa (OTP); Keyso Jr. Andrew J; Zuba Kathryn A; Hall Charles A; Tonuzi Drita  
**Subject:** RE: Help: Bitcoin notice effective date/penalty relief

Rochelle, We are on board with a retroactive effective date and I'm copying Andy so that he knows that we are in agreement. Chuck will continue to work to expedite this to meet our objectives. Thanks, Drita

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]  
**Sent:** Wednesday, February 26, 2014 9:09 AM  
**To:** Tonuzi Drita; Zuba Kathryn A  
**Cc:** Keyso Jr. Andrew J; Zarlenga Lisa (OTP)  
**Subject:** Help: Bitcoin notice effective date/penalty relief

## Griffin Adrienne E

---

**From:** Hall Charles A  
**Sent:** Thursday, February 27, 2014 8:27 AM  
**To:** Prasad Girish; Griffin Adrienne E  
**Cc:** Cottrell Mark E  
**Subject:** FW: effective date for virtual currency notice

FYI.

Charles A. Hall  
Senior Technician Reviewer  
Procedure & Administration  
IRS, Office of Chief Counsel  
CC:PA:1  
(202) 317-5134

---

**From:** Tonuzi Drita  
**Sent:** Wednesday, February 26, 2014 6:05 PM  
**To:** Hall Charles A  
**Cc:** Zuba Kathryn A; Lucey Matthew D  
**Subject:** FW: effective date for virtual currency notice

fyi

---

**From:** Tonuzi Drita  
**Sent:** Wednesday, February 26, 2014 6:03 PM  
**To:** Corwin Erik H  
**Cc:** Milnes-Vasquez Marie C; Keyso Jr. Andrew J; Tonuzi Drita  
**Subject:** FW: effective date for virtual currency notice

Erik, My folks do not think

(b)(5)

---

**From:** Lucey Matthew D  
**Sent:** Wednesday, February 26, 2014 5:42 PM  
**To:** Zuba Kathryn A; Tonuzi Drita  
**Subject:** RE: effective date for virtual currency notice

(b)(5)

---

**From:** Zuba Kathryn A  
**Sent:** Wednesday, February 26, 2014 5:40 PM

**Griffin Adrienne E**

---

**From:** Keyso Jr. Andrew J  
**Sent:** Friday, March 07, 2014 2:15 PM  
**To:** Cook Janine; Hall Charles A; Griffin Adrienne E; Prasad Girish  
**Cc:** Fahey Douglas A; Welsh Donna J  
**Subject:** FW: Revised virtual currency notice

All, see Erik Corwin's email below. We'd love to have any comments you have by 4pm today if we're to meet his 5pm target.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Corwin Erik H  
**Sent:** Friday, March 07, 2014 2:05 PM  
**To:** Fahey Douglas A; Milnes-Vasquez Marie C  
**Cc:** Keyso Jr. Andrew J; Corwin Erik H; Cook Janine; Welsh Donna J  
**Subject:** RE: Revised virtual currency notice

(b)(5)

---

**From:** Fahey Douglas A  
**Sent:** Friday, March 07, 2014 12:37 PM  
**To:** Corwin Erik H; Milnes-Vasquez Marie C  
**Cc:** Keyso Jr. Andrew J  
**Subject:** FW: Revised virtual currency notice



I was planning to wait until I got reactions from TEGE and P&A, but just talked with Andy. Since he gave you a preview of the revisions, we thought we would just send you what we have at this point.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Fahey Douglas A  
**Sent:** Friday, March 07, 2014 12:06 PM  
**To:** Cook Janine; Hall Charles A; Griffin Adrienne E; Prasad Girish  
**Cc:** Welsh Donna J  
**Subject:** Revised virtual currency notice

(b) (5)

Doug Fahey  
**NEW PHONE 202-317-4619**

Washington, DC 20224  
202-317-5155

---

**From:** Keyso Jr. Andrew J  
**Sent:** Friday, March 07, 2014 2:15 PM  
**To:** Cook Janine; Hall Charles A; Griffin Adrienne E; Prasad Girish  
**Cc:** Fahey Douglas A; Welsh Donna J  
**Subject:** FW: Revised virtual currency notice

All, see Erik Corwin's email below. We'd love to have any comments you have by 4pm today if we're to meet his 5pm target.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Corwin Erik H  
**Sent:** Friday, March 07, 2014 2:05 PM  
**To:** Fahey Douglas A; Milnes-Vasquez Marie C  
**Cc:** Keyso Jr. Andrew J; Corwin Erik H; Cook Janine; Welsh Donna J  
**Subject:** RE: Revised virtual currency notice

(b)(5)

---

**From:** Fahey Douglas A  
**Sent:** Friday, March 07, 2014 12:37 PM  
**To:** Corwin Erik H; Milnes-Vasquez Marie C  
**Cc:** Keyso Jr. Andrew J  
**Subject:** FW: Revised virtual currency notice

I was planning to wait until I got reactions from TEGE and P&A, but just talked with Andy. Since he gave you a preview of the revisions, we thought we would just send you what we have at this point.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Fahey Douglas A  
**Sent:** Friday, March 07, 2014 12:06 PM  
**To:** Cook Janine; Hall Charles A; Griffin Adrienne E; Prasad Girish  
**Cc:** Welsh Donna J  
**Subject:** Revised virtual currency notice



(b)(5)

Doug Fahey  
**NEW PHONE 202-317-4619**

## Griffin Adrienne E

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, March 12, 2014 4:56 PM  
**To:** Aqui Keith A; Welsh Donna J; Stahl Raymond J; Erwin Mark E; Jensen Steven D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Dubert Alexa T; Blanchard William E; Cook Janine; Shepherd Neil D; Burns Gregory; Ronk Alice L; Berman Samuel  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx  
**Attachments:** Bitcoin Notice 3-7-14 4PM rh ESM Edits (KW additional edits).docx

This is the latest draft of the virtual currency notice with Treasury edits. Please let me know at your earliest convenience if you have any comments, suggested revisions etc. Negative replies requested. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, March 12, 2014 4:32 PM  
**To:** Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); Zarlenga Lisa (OTP)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

## Griffin Adrienne E

---

**From:** Prasad Girish  
**Sent:** Thursday, March 13, 2014 9:11 AM  
**To:** Fahey Douglas A  
**Cc:** Griffin Adrienne E; Hall Charles A  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Hi Doug,



(b)(5)

Girish

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, March 12, 2014 4:56 PM  
**To:** Aqui Keith A; Welsh Donna J; Stahl Raymond J; Erwin Mark E; Jensen Steven D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Dubert Alexa T; Blanchard William E; Cook Janine; Shepherd Neil D; Burns Gregory; Ronk Alice L; Berman Samuel  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx

This is the latest draft of the virtual currency notice with Treasury edits. Please let me know at your earliest convenience if you have any comments, suggested revisions etc. Negative replies requested. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, March 12, 2014 4:32 PM  
**To:** Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); Zarlenga Lisa (OTP)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

This is the latest draft of the virtual currency notice with Treasury edits. Please let me know at your earliest convenience if you have any comments, suggested revisions etc. Negative replies requested. Thanks.

Doug Fahey

**NEW PHONE 202-317-4619**

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**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]

**Sent:** Wednesday, March 12, 2014 4:32 PM

**To:** Corwin Erik H

**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); Zarlenga Lisa (OTP)

**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

**Griffin Adrienne E**

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, March 25, 2014 11:58 AM  
**To:** Aqui Keith A; Shepherd Neil D; Griffin Adrienne E; Stahl Raymond J  
**Cc:** Welsh Donna J; Burns Gregory; Cook Janine; Prasad Girish; Hall Charles A; Erwin Mark E; Ronk Alice L; Berman Samuel; Dubert Alexa T; Blanchard William E; Tackney Stephen B  
**Subject:** Virtual currency notice  
**Attachments:** Notice 2014-21 3-25-14 CLEAN.docx

Just wanted to give everyone a head's up that the virtual currency notice is scheduled for release around 2:00 today. Those of you on the To: line may experience a spike in phone calls since you are listed in the drafting information. Media Relations is also expecting a lot of calls, and plans to ask for our assistance in responding to calls they are not comfortable handling.

**Doug Fahey**  
**202.317.4619**

Notice 2014-21

## SECTION 1. PURPOSE

This notice describes how existing general tax principles apply to transactions using virtual currency. The notice provides this guidance in the form of answers to frequently asked questions.

## SECTION 2. BACKGROUND

The Internal Revenue Service (IRS) is aware that “virtual currency” may be used to pay for goods or services, or held for investment. Virtual currency is a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value. In some environments, it operates like “real” currency -- i.e., the coin and paper money of the United States or of any other country that is designated as legal tender, circulates, and is customarily used and accepted as a medium of exchange in the country of issuance -- but it does not have legal tender status in any jurisdiction.

Virtual currency that has an equivalent value in real currency, or that acts as a substitute for real currency, is referred to as “convertible” virtual currency. Bitcoin is one example of a convertible virtual currency. Bitcoin can be digitally traded between users and can be purchased for, or exchanged into, U.S. dollars, Euros, and other real or virtual currencies. For a more comprehensive description of convertible virtual currencies to date, see Financial Crimes Enforcement Network (FinCEN) *Guidance on the Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies* (FIN-2013-G001, March 18, 2013).

## SECTION 3. SCOPE

In general, the sale or exchange of convertible virtual currency, or the use of convertible virtual currency to pay for goods or services in a real-world economy transaction, has tax consequences that may result in a tax liability. This notice addresses only the U.S. federal tax consequences of transactions in, or transactions that use, convertible virtual currency, and the term “virtual currency” as used in Section 4 refers only to convertible virtual currency. No inference should be drawn with respect to virtual currencies not described in this notice.

The Treasury Department and the IRS recognize that there may be other questions regarding the tax consequences of virtual currency not addressed in this notice that warrant consideration. Therefore, the Treasury Department and the IRS request comments from the public regarding other types or aspects of virtual currency transactions that should be addressed in future guidance.

Comments should be addressed to:



Internal Revenue Service  
Attn: CC:PA:LPD:PR (Notice 2014-21)  
Room 5203  
P.O. Box 7604  
Ben Franklin Station  
Washington, D.C. 20044

or hand delivered Monday through Friday between the hours of 8 A.M. and 4 P.M. to:

Courier's Desk  
Internal Revenue Service  
Attn: CC:PA:LPD:PR (Notice 2014-21)  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

Alternatively, taxpayers may submit comments electronically via e-mail to the following address: [Notice.Comments@irs.counsel.treas.gov](mailto:Notice.Comments@irs.counsel.treas.gov). Taxpayers should include "Notice 2014-21" in the subject line. All comments submitted by the public will be available for public inspection and copying in their entirety.

For purposes of the FAQs in this notice, the taxpayer's functional currency is assumed to be the U.S. dollar, the taxpayer is assumed to use the cash receipts and disbursements method of accounting and the taxpayer is assumed not to be under common control with any other party to a transaction.

#### SECTION 4. FREQUENTLY ASKED QUESTIONS

**Q-1: How is virtual currency treated for federal tax purposes?**

**A-1:** For federal tax purposes, virtual currency is treated as property. General tax principles applicable to property transactions apply to transactions using virtual currency.

**Q-2: Is virtual currency treated as currency for purposes of determining whether a transaction results in foreign currency gain or loss under U.S. federal tax laws?**

**A-2:** No. Under currently applicable law, virtual currency is not treated as currency that could generate foreign currency gain or loss for U.S. federal tax purposes.

**Q-3: Must a taxpayer who receives virtual currency as payment for goods or services include in computing gross income the fair market value of the virtual currency?**

**A-3:** Yes. A taxpayer who receives virtual currency as payment for goods or services must, in computing gross income, include the fair market value of the virtual currency,

measured in U.S. dollars, as of the date that the virtual currency was received. See Publication 525, *Taxable and Nontaxable Income*, for more information on miscellaneous income from exchanges involving property or services.

**Q-4: What is the basis of virtual currency received as payment for goods or services in Q&A-3?**

**A-4:** The basis of virtual currency that a taxpayer receives as payment for goods or services in Q&A-3 is the fair market value of the virtual currency in U.S. dollars as of the date of receipt. See Publication 551, *Basis of Assets*, for more information on the computation of basis when property is received for goods or services.

**Q-5: How is the fair market value of virtual currency determined?**

**A-5:** For U.S. tax purposes, transactions using virtual currency must be reported in U.S. dollars. Therefore, taxpayers will be required to determine the fair market value of virtual currency in U.S. dollars as of the date of payment or receipt. If a virtual currency is listed on an exchange and the exchange rate is established by market supply and demand, the fair market value of the virtual currency is determined by converting the virtual currency into U.S. dollars (or into another real currency which in turn can be converted into U.S. dollars) at the exchange rate, in a reasonable manner that is consistently applied.

**Q-6: Does a taxpayer have gain or loss upon an exchange of virtual currency for other property?**

**A-6:** Yes. If the fair market value of property received in exchange for virtual currency exceeds the taxpayer's adjusted basis of the virtual currency, the taxpayer has taxable gain. The taxpayer has a loss if the fair market value of the property received is less than the adjusted basis of the virtual currency. See Publication 544, *Sales and Other Dispositions of Assets*, for information about the tax treatment of sales and exchanges, such as whether a loss is deductible.

**Q-7: What type of gain or loss does a taxpayer realize on the sale or exchange of virtual currency?**

**A-7:** The character of the gain or loss generally depends on whether the virtual currency is a capital asset in the hands of the taxpayer. A taxpayer generally realizes capital gain or loss on the sale or exchange of virtual currency that is a capital asset in the hands of the taxpayer. For example, stocks, bonds, and other investment property are generally capital assets. A taxpayer generally realizes ordinary gain or loss on the sale or exchange of virtual currency that is not a capital asset in the hands of the taxpayer. Inventory and other property held mainly for sale to customers in a trade or

business are examples of property that is not a capital asset. See Publication 544 for more information about capital assets and the character of gain or loss.

**Q-8: Does a taxpayer who “mines” virtual currency (for example, uses computer resources to validate Bitcoin transactions and maintain the public Bitcoin transaction ledger) realize gross income upon receipt of the virtual currency resulting from those activities?**

**A-8:** Yes, when a taxpayer successfully “mines” virtual currency, the fair market value of the virtual currency as of the date of receipt is includible in gross income. See Publication 525, *Taxable and Nontaxable Income*, for more information on taxable income.

**Q-9: Is an individual who “mines” virtual currency as a trade or business subject to self-employment tax on the income derived from those activities?**

**A-9:** If a taxpayer’s “mining” of virtual currency constitutes a trade or business, and the “mining” activity is not undertaken by the taxpayer as an employee, the net earnings from self-employment (generally, gross income derived from carrying on a trade or business less allowable deductions) resulting from those activities constitute self-employment income and are subject to the self-employment tax. See Chapter 10 of Publication 334, *Tax Guide for Small Business*, for more information on self-employment tax and Publication 535, *Business Expenses*, for more information on determining whether expenses are from a business activity carried on to make a profit.

**Q-10: Does virtual currency received by an independent contractor for performing services constitute self-employment income?**

**A-10:** Yes. Generally, self-employment income includes all gross income derived by an individual from any trade or business carried on by the individual as other than an employee. Consequently, the fair market value of virtual currency received for services performed as an independent contractor, measured in U.S. dollars as of the date of receipt, constitutes self-employment income and is subject to the self-employment tax. See FS-2007-18, April 2007, *Business or Hobby? Answer Has Implications for Deductions*, for information on determining whether an activity is a business or a hobby.

**Q-11: Does virtual currency paid by an employer as remuneration for services constitute wages for employment tax purposes?**

**A-11:** Yes. Generally, the medium in which remuneration for services is paid is immaterial to the determination of whether the remuneration constitutes wages for employment tax purposes. Consequently, the fair market value of virtual currency paid as wages is subject to federal income tax withholding, Federal Insurance Contributions

Act (FICA) tax, and Federal Unemployment Tax Act (FUTA) tax and must be reported on Form W-2, *Wage and Tax Statement*. See Publication 15 (Circular E), *Employer's Tax Guide*, for information on the withholding, depositing, reporting, and paying of employment taxes.

**Q-12: Is a payment made using virtual currency subject to information reporting?**

**A-12:** A payment made using virtual currency is subject to information reporting to the same extent as any other payment made in property. For example, a person who in the course of a trade or business makes a payment of fixed and determinable income using virtual currency with a value of \$600 or more to a U.S. non-exempt recipient in a taxable year is required to report the payment to the IRS and to the payee. Examples of payments of fixed and determinable income include rent, salaries, wages, premiums, annuities, and compensation.

**Q-13: Is a person who in the course of a trade or business makes a payment using virtual currency worth \$600 or more to an independent contractor for performing services required to file an information return with the IRS?**

**A-13:** Generally, a person who in the course of a trade or business makes a payment of \$600 or more in a taxable year to an independent contractor for the performance of services is required to report that payment to the IRS and to the payee on Form 1099-MISC, *Miscellaneous Income*. Payments of virtual currency required to be reported on Form 1099-MISC should be reported using the fair market value of the virtual currency in U.S. dollars as of the date of payment. The payment recipient may have income even if the recipient does not receive a Form 1099-MISC. See the Instructions to Form 1099-MISC and the General Instructions for Certain Information Returns for more information. For payments to non-U.S. persons, see Publication 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

**Q-14: Are payments made using virtual currency subject to backup withholding?**

**A-14:** Payments made using virtual currency are subject to backup withholding to the same extent as other payments made in property. Therefore, payors making reportable payments using virtual currency must solicit a taxpayer identification number (TIN) from the payee. The payor must backup withhold from the payment if a TIN is not obtained prior to payment or if the payor receives notification from the IRS that backup withholding is required. See Publication 1281, *Backup Withholding for Missing and Incorrect Name/TINs*, for more information.

**Q-15: Are there IRS information reporting requirements for a person who settles payments made in virtual currency on behalf of merchants that accept virtual currency from their customers?**

**A-15:** Yes, if certain requirements are met. In general, a third party that contracts with a substantial number of unrelated merchants to settle payments between the merchants and their customers is a third party settlement organization (TPSO). A TPSO is required to report payments made to a merchant on a Form 1099-K, *Payment Card and Third Party Network Transactions*, if, for the calendar year, both (1) the number of transactions settled for the merchant exceeds 200, and (2) the gross amount of payments made to the merchant exceeds \$20,000. When completing Boxes 1, 3, and 5a-1 on the Form 1099-K, transactions where the TPSO settles payments made with virtual currency are aggregated with transactions where the TPSO settles payments made with real currency to determine the total amounts to be reported in those boxes. When determining whether the transactions are reportable, the value of the virtual currency is the fair market value of the virtual currency in U.S. dollars on the date of payment.

See The Third Party Information Reporting Center, <http://www.irs.gov/Tax-Professionals/Third-Party-Reporting-Information-Center>, for more information on reporting transactions on Form 1099-K.

**Q-16: Will taxpayers be subject to penalties for having treated a virtual currency transaction in a manner that is inconsistent with this notice prior to March 25, 2014?**

**A-16:** Taxpayers may be subject to penalties for failure to comply with tax laws. For example, underpayments attributable to virtual currency transactions may be subject to penalties, such as accuracy-related penalties under section 6662. In addition, failure to timely or correctly report virtual currency transactions when required to do so may be subject to information reporting penalties under section 6721 and 6722. However, penalty relief may be available to taxpayers and persons required to file an information return who are able to establish that the underpayment or failure to properly file information returns is due to reasonable cause.

## SECTION 5. DRAFTING INFORMATION

The principal author of this notice is Keith A. Aqui of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information about income tax issues addressed in this notice, please contact Mr. Aqui at (202) 317-4718; for further information about employment tax issues addressed in this notice, please contact Mr. Neil D. Shepherd at (202) 317- 4774; for further information about information reporting issues addressed in this notice, please contact Ms. Adrienne E. Griffin at (202) 317-6845; and for further information regarding foreign currency issues addressed in this notice, please contact Mr. Raymond J. Stahl at (202) 317- 6938. These are not toll-free calls.

I used "bitcoins" or "litecoins" in the many of the questions that will be later used as examples. Those specific VCs can be readily changed to another term or to "virtual currency" later on.

I put down suggested answers on several of the questions, but ended up deleting my suggested answers because some of it probably had my biases in it is premature at this point. I left the suggested answer in for question #5, because I thought this was fairly straightforward and more of a general small business question than a bitcoin question.

I am in all today and the rest of the week.

Eric

## Griffin Adrienne E

---

**From:** Welsh Donna J  
**Sent:** Thursday, August 08, 2013 12:05 PM  
**To:** Welsh Donna J; Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aquil Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T  
**Subject:** FW: Virtual Currency



Shavers.pdf

Bitcoins held to be currency or form of money by District Court.

---

**From:** Welsh Donna J  
**Sent:** Wednesday, July 24, 2013 3:20 PM  
**To:** Welsh Donna J; Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aquil Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T  
**Cc:** Welsh Donna J  
**Subject:** FW: Virtual Currency

Hi Everyone, More info on Bitcoins...not real currency.

[thanks, Neil.]

---

**From:** Shepherd Neil D  
**Sent:** Wednesday, July 24, 2013 1:40 PM  
**To:** Welsh Donna J  
**Cc:** Camillo Lynne A; Richards John B; Shepherd Neil D  
**Subject:** Virtual Currency

Greetings, Donna. I'm sure you're buried under Bitcoin related information, but I wanted to make sure that you have the FinCEN guidance relating to virtual currencies (attached). Additionally, the European Central Bank prepared a report on "virtual currency schemes" with a section devoted to Bitcoins (also attached). Anecdotally, it appears that both the Federal Reserve and the Securities & Exchange Commission are looking at Bitcoins. To the extent possible, a consistent approach among various Federal agencies seems advisable.

Many thanks.



FinCEN  
Guidance.pdf



Virtual Currency  
[ECB].pdf

## Griffin Adrienne E

---

**From:** Griffin Adrienne E  
**Sent:** Tuesday, August 13, 2013 9:31 AM  
**To:** Dubert Alexa T  
**Subject:** FW: Virtual Currency

Tracking:	Recipient	Read
	Dubert Alexa T	Read: 8/13/2013 9:59 AM

Hi Alexa,



I was wondering if you would like to discuss this question [redacted] - I'm generally free (b)(5)  
today, except for a meeting from 12 to 1, so if you want to give me a call, that would work.

Thanks,  
Adrienne

### **Adrienne Griffin**

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

---

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**Sent:** Thursday, August 08, 2013 12:05 PM  
**To:** Welsh Donna J; Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aquil Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T  
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**Cc:** Welsh Donna J  
**Subject:** FW: Virtual Currency

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[thanks, Neil.]

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**To:** Welsh Donna J  
**Cc:** Camillo Lynne A; Richards John B; Shepherd Neil D  
**Subject:** Virtual Currency

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Many thanks.



FinCEN  
Guidance.pdf



Virtual Currency  
[ECB].pdf

## Griffin Adrienne E

---

**From:** Prasad Girish  
**Sent:** Tuesday, August 13, 2013 12:27 PM  
**To:** Griffin Adrienne E  
**Subject:** RE:

Thanks. I'm tied up til about 4. Let's try then.

---

**From:** Griffin Adrienne E  
**Sent:** Tuesday, August 13, 2013 12:09 PM  
**To:** Prasad Girish  
**Subject:** RE:

When I spoke with Chuck, he said if Donna was out this week, he felt like it was ok to take an extra day or two. Alexa Dubert from FIP called me back –

(b)(5)

(b)(5)

I have a meeting coming up, but if you would like to discuss this afterward, please let me know. I guess I will also check in with Chuck again after my meeting, because he hasn't let me know if he is done with the orange folder yet.

Thanks!  
Adrienne

**Sent:** Tuesday, August 13, 2013 10:26 AM  
**To:** Griffin Adrienne E  
**Subject:** RE:

Great - thanks!

Let me know if you need anything from me on that. Did we find out if we need to get her (or someone else) the draft write-ups by COB today?

---

**From:** Griffin Adrienne E  
**Sent:** Tuesday, August 13, 2013 10:25 AM  
**To:** Prasad Girish  
**Subject:** RE:

He is, and I brought him the orange folder and he said he'd look at it asap. I can pick it up from him once he is done. His ankle is not broken, but he has one of those boots on it.

He asked about virtual currencies – I told him we were working on it and that Donna is out this week. I emailed the person from FIP this morning to see if she wanted to discuss the commodities issue.

Thanks,  
Adrienne

***Adrienne Griffin***

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

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**From:** Prasad Girish  
**Sent:** Tuesday, August 13, 2013 10:13 AM  
**To:** Griffin Adrienne E  
**Subject:** RE:

Hey Adrienne - is Chuck in today?

---

**From:** Griffin Adrienne E  
**Sent:** Tuesday, August 13, 2013 8:36 AM  
**To:** Prasad Girish  
**Subject:** RE:

Thanks. Has Chuck opened your message from yesterday? If not, I can check with him this morning.

***Adrienne Griffin***

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

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**From:** Prasad Girish  
**Sent:** Tuesday, August 13, 2013 7:29 AM  
**To:** Griffin Adrienne E  
**Subject:**

(b)(5)

**From:** [Watkins Andrea M](#) on behalf of [Corwin Erik H](#)  
**To:** [Keyso Jr. Andrew J](#); [Moriarty John P](#); [Fahey Douglas A](#); [Welsh Donna J](#)  
**Subject:** (ITA) Bitcoin Notice 3-7-14 4PM

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**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Fahey Douglas A](#); [Welsh Donna J](#)  
**Subject:** 1/3/14 BNA and WSJ articles  
**Date:** Friday, January 03, 2014 9:37:11 AM

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## Inaction on Tax Code Rewrite May Allow Muni Bonds to Escape Threat to Exemption

By [William Selway](#)

Dec. 31 — For the \$3.7 trillion municipal bond market, Washington's political divide may be a good thing.

The coming year's congressional elections weaken chances of a far-reaching tax code overhaul that would roll back the break for buyers of state and local government debt, said analysts including Morgan Stanley Wealth Management's John Dillon and Matt Posner, who follow federal policy for Municipal Market Advisors. That may aid a market hit by losses in 2013 as investors pulled out money amid speculation about rising interest rates and mounting distress in governments such as Puerto Rico's.

"The likelihood of any changes to the treatment of the municipal bond tax exemption in 2014 are dim," said Posner, whose firm is based in Concord, Mass. "This Congress is unable to get much done at all."

A change to the century-old tax break to state and local government debt would weaken the value of the securities, which sell for higher prices than other bonds because investors don't have to pay federal taxes on the income. The subsidy also pushes down costs for states and cities, which borrow to pay for roads, schools and other public works.

### Little Emerges

The possibility that the tax exemption could be eliminated or curtailed has persisted in Washington since 2010, when the leaders of President Barack Obama's deficit-cutting commission proposed eliminating it as part of a broad package of changes. The following year, Obama sought to curb its value to the wealthiest taxpayers to raise revenue, a proposal that the administration has continued to endorse.

None of the proposals has advanced in Congress. The enmity between the Republican-led House and the Democratic-run Senate made 2013 its least productive first year of any session in three decades, based on the number of laws passed, according to GovTrack, which follows legislation.

Yet the risk that Congress could roll back the exemption unnerved investors. Posner, the bond analyst, said it is one reason that the gap between short- and long-term interest rates in the tax-exempt market is wider than for bonds that don't carry the tax break. That reflects the risk of holding debt that will mature years from now. He said it may also be one reason why investors have been pulling money from municipal bond mutual funds, which lost \$26 billion from March through September, according to Federal Reserve data.

"Just the uncertainty has to make for some selling pressure," Posner said.

### Fresh Love

Spurred by such selling, muni performance is set to trail stocks, commodities, Treasuries and corporate bonds this year, according to data compiled by Bloomberg and Bank of America Merrill Lynch. Munis have declined 0.9 percent, after adjusting for the volatility in trading, the numbers show.

The diminished chance that Congress may succeed in rewriting the tax code may help municipal bonds. David Litvack, head of tax-exempt bond research at U.S. Trust, a New York-based unit of Bank of America Corp., said the advantages of municipal bonds may become more apparent as investors file their taxes for 2013, when the top tax bracket rose.

"We don't see much incentive in an election year for politicians to compromise," Litvack said. "Barring an unexpected sweep by the Democrats in the House of Representatives so that they would get a majority, we don't see the same thing happening for the next two years as well."

#### Danger Diminished

There are other obstacles. Senate Finance Committee Chairman Max Baucus (D-Mont.), who has led efforts to change the tax code, has been nominated to be ambassador to China and is expected to be confirmed in the first half of the year. His counterpart in the House, Ways and Means Committee Chairman Dave Camp (R-Mich.), is also expected to step down at end of 2014 because of Republicans' six-year term limit for committee leaders. The budget agreement signed by Obama, which fixes spending targets through fiscal 2015, has also removed pressure to deal with spending.

John Dillon, head of muni strategy at Morgan Stanley Wealth Management in Purchase, N.Y., said the market's dominant concern is the threat of rising interest rates, which would reduce the value of outstanding bonds. Still, he said, the diminished risk to the tax exemption should help demand.

"It don't think the threat goes away, but it's mitigated for 2014," he said.

## Fannie-Freddie Settlement Tab in 2013: \$7.9 Billion

### Tab Represents Total in Crisis-Era Payments Received From 7 Financial Firms

By Nick Timiraos

Jan. 2, 2014 11:41 a.m. ET

Fannie Mae and Freddie Mac collected \$7.9 billion last year in settlements with seven major financial institutions to resolve lawsuits filed by the firms' regulator, the Federal Housing Finance Agency said Thursday.

The seven settlements had already been disclosed by either the banks or the FHFA, but the FHFA hadn't provided the amounts that some of the bank defendants had paid until Thursday.

The FHFA, which controls...

## Who Needs Bitcoin? Venezuela Has Its 'Sucre'

### Virtual Currency Is Growing in Popularity—And Raising

# Some Alarms

By Mercedes Alvaro and Jeffrey T. Lewis

Jan. 2, 2014 6:51 p.m. ET

QUITO, Ecuador—Satoshi Nakamoto and Hugo Chávez had at least one thing in common: Both created virtual currencies whose popularity is growing but which are also raising alarms among law-enforcement officials.

Where the pseudonymous Mr. Nakamoto is credited with creating bitcoin, the late Venezuelan president created the sucre, a virtual currency designed to dethrone the dollar as the main trading currency used with his country's...

**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Fahey Douglas A](#); [Welsh Donna J](#); [Erwin Mark E](#); [Imholtz Diana](#)  
**Subject:** 1/28/14 TNT ABA insurance article and WSJ bitcoin articles  
**Date:** Tuesday, January 28, 2014 7:28:39 AM

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January 28, 2014

## ABA Meeting: IRS Considering Options on *Rent-A-Center* Captive Insurer Decision

by [David van den Berg](#)

The Tax Court's January 14 decision upholding *Rent-A-Center Inc.*'s business expense deductions for insurance premiums paid by its subsidiaries to the company's captive insurance company presents the IRS with a great deal of material to parse and it's unclear how the agency will proceed, a Service official said January 24.

Speaking during the Insurance Companies session of the American Bar Association Section of Taxation meeting in Phoenix, Sheryl Flum, branch 4 chief, IRS Office of Associate Chief Counsel (Financial Institutions and Products), said she doesn't believe anyone at the IRS is trying to dismiss corporate captive insurers as inappropriate, and that each case, including *Rent-A-Center Inc. v. Commissioner*, 142 T.C. No. 1 (2014), is being reviewed individually.

"I think that whatever happens in *Rent-A-Center*, it's not going to answer the big captive questions," Flum said. She added that in her view, the more important question that *Rent-A-Center* did not address was whether a business can shift risk freely among component entities "or whether you have to look to who has the risk of economic loss."

The Tax Court, in a divided opinion, held that *Rent-A-Center* was entitled to business deductions for insurance premiums its subsidiaries paid to Legacy Insurance Co., a wholly owned captive insurer in Bermuda. The arrangement was insurance as commonly understood, and Legacy wasn't a sham, the court found.

### A Closer Look at Captives

But Flum acknowledged that the IRS is looking more closely at captives in general. "Captives have proliferated in recent history," Flum said on a panel at the Court Procedure and Practice session. "Most *Fortune* 500 companies have captives, and now with section 831(b), a lot of middle-market and closely held companies are forming captives. Given this environment of proliferation of captives, we are seeing an uptick in IRS interest in captives.

"The government is trying to walk a very thin line here because we are not trying to chill legitimate captive entities," she continued. "We recognize that in a lot of cases there are small businesses where it makes a lot more economic business sense to do



self-insurance through a captive and then do a pooling arrangement."

One thing the IRS is looking at is the likelihood of an external event happening and the corresponding premiums paid to the captive. Flum offered an example in which a New Jersey-based company pays high premiums to its captive to insure against an erupting volcano. The volcano insurance by itself won't mark the captive as a sham in the IRS's eyes, but the premiums should be very small, Flum said.

Flum said the IRS is standing behind the three captive insurance revenue rulings issued in 2002 but will challenge instances where "things look a little too cute." (See Rev. Rul. 2002-90, 2002-52 IRB 1 ; Rev. Rul. 2002-91, 2002-52 IRB 1 ; and Rev. Rul. 2002-89, 2002-52 IRB 1 . See also Rev Rul. 2001-31, 2001-26 IRB 1 .)

### **Other Cases**

During the Insurance Companies session, Flum also discussed several other cases, including *R.V.I. Guaranty Co. Ltd. v. Commissioner*, T.C. No. 27319-12. That case has been continued to July, according to Kristan Rizzulo of Sutherland, Asbill & Brennan LLP. (Prior coverage ).

According to Flum, the "bigger question" in the *Rent-A-Center* case is whether risk shifting among items or units is permissible, or "whether you have to look at who has the risk of economic loss," but the court did not address that issue.

"The question of what is insurance and what can be the subject of insurance is a really complicated question, and we're forced to look to the common law -- and there's really very little in the common law that it tells us what is insurance," Flum said. "I think that any opinion is worthwhile having in those cases because we need to build up the body of law so that we know which way it's going."

Flum said she would be shocked if the IRS didn't appeal in *Massachusetts Mutual Life Insurance Co. v. United States*, 103 Fed. Cl. 111 (Fed. Cl. 2012) .

"The whole issue of when a policyholder dividend is allowed to be deducted by the insurance company is still sort of an open issue," she said.

The Court of Federal Claims held that the insurer could deduct guaranteed minimum policyholder dividends in the year in which the board of directors resolved to pay dividends, rather than in the following year when the dividends were paid, and held that the three prongs of the all-events test for accrual were met. MassMutual, both on its own behalf and as successor to Connecticut Mutual Life Insurance Co., went to court seeking to recover funds allegedly overpaid to the IRS for the 1995, 1996 and 1997 tax years, when the IRS disallowed some policyholder deductions made under board resolutions.

Flum noted that although the government received an unfavorable opinion in *MassMutual*, it received a favorable one in *New York Life Insurance Co. v. United*

*States*, No. 11-2394 (2d Cir. 2012) , *aff'g* 780 F. Supp. 2d 324 (S.D.N.Y. 2011) . In that case, the Second Circuit Court of Appeals affirmed a district court's holding that dismissed the insurer's refund suit that resulted from the IRS disallowing deductions claimed for paying dividends to policyholders. The Second Circuit found that New York Life had not met the all-events test to claim the deductions.

"The question, really, in *MassMutual* as it was in *New York Life* -- although the facts are slightly different -- comes out to be, when does the annual statement trump and when do the tax rules trump?" Flum said. "And it's an interesting question, and you could debate it for hours and days."

In response to an audience member who said New York Life filed a petition for certiorari with the Supreme Court on January 14, Flum said, "Something tells me that the [justices] are probably going to wait and see what happens with *MassMutual*."

While Flum expects an appeal in *MassMutual*, she said one isn't likely in *Acuity, A Mutual Insurance Co. v. Commissioner*, T.C. Memo. 2013-209 (2013) . The court found in that case that the insurer's carried loss reserves for 2006 were fair and reasonable and were calculated according to the National Association of Insurance Commissioners' rules and the Actuarial Standards of Practice. She said the IRS has until early March to appeal the Tax Court's decision, which was filed in September.

"It's a very fact-specific case, and those are generally not things that it would do much good for anybody to make it go any further," she said. "The *Acuity* decision was really a resounding smack to the IRS, and I for one think that when that happens, we need to listen and start wondering whether this is an abuse of taxpayer dollars to go after -- unless we can find the smoking gun. And if there's a smoking gun then absolutely we should do something about it."

*William R. Davis contributed to this article.*

## Two Charged in Alleged Bitcoin-Laundering Scheme

### Accused of Conspiring to Sell Virtual Currency to Members of the Silk Road Website

By Christopher M. Matthews And Robin SideI

Updated Jan. 27, 2014 7:38 p.m. ET

Prominent bitcoin advocate Charlie Shrem was arrested and charged in connection with a money-laundering conspiracy that allegedly funneled more than \$1 million of the digital currency to users of the online black-market site Silk Road.

Mr. Shrem, 24 years old, was arrested Sunday at John F. Kennedy International Airport in New York after returning from a bitcoin conference in Amsterdam. Another man, Robert Faiella, also was arrested

in what the Manhattan U.S. attorney's office said on Monday was a conspiracy to help Silk...

# Pay Me in Bitcoin, IT Professionals Say

By [Michael J. Casey](#)

A majority of U.S technology professionals would welcome being paid in bitcoin, according to a survey by event organizer Tech in Motion.

Out of 847 responses to a questionnaire sent to Tech in Motion's 18,000 members, 51.12% answered "yes, absolutely," to the question "Would you be interested in being paid for your work in cryptocurrencies like Bitcoin?" A further 18.06% ticked "Maybe, let's see where Bitcoin is in a year or two," with the remainder saying that they would prefer to be paid in traditional currency.

Just 9.92% rejected the option because they "do not think Bitcoin will last," and 1.18% said they didn't know what bitcoin was.

The results will be encouraging to bitcoin payment processor firms, which are trying to convince U.S. payroll processors to offer crypto-currency options to their clients' employees. Bitpay is developing such a service in the U.S. and, according to Chief Executive Anthony Gallippi, is talking to various payroll processors about the prospect of signing them on to it. In Canada, payroll management firm Wagepoint already has partnered with Canadian virtual exchange VirtEx to integrate bitcoin options into its services.

Payroll is seen by bitcoin advocates as a powerful driver of bitcoin adoption in the future. Obtaining the digital currency is currently cumbersome and inefficient, partly because exchanges and brokers have struggled to establish solid relationships with traditional banks to allow their customers to easily exchange dollars and other fiat currency into bitcoin. They say an expansion of bitcoin wage payments—even if employees opt to receive only a small portion of their income this way—would create a more seamless way for people to acquire and start using the crypto-currency, delivering it the same way they have always received their dollars.

That the tech community would be most in favor of this is consistent with other trends. Many bitcoin enthusiasts have math and computer-science backgrounds. IT professionals are most likely to be familiar with the workings of the bitcoin software protocol, its system for "mining" coins into existence via machines that solve complex computation problems, and the appeal of its decentralized model for verifying transactions on a universal ledger known as the bitcoin blockchain.

It's possible that the most enthusiastic bitcoin supporters were the most motivated to respond to the Tech in Motion survey, which would have skewed the results. But according to data provided by the PR agency Shift Communications, the membership covers a fairly wide cross-section of IT firms, including software developers, open-source developers, IT infrastructure producers, and hardware and mobile product developers. Shift senior account executive David Hefferman also noted that Tech in Motion has "done some rough polling in each city [where its members are based] and the numbers are fairly consistent."

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**Subject:** 1/29/14 TNT and WSJ articles  
**Date:** Wednesday, January 29, 2014 7:31:20 AM

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## Excerpts from the President's proposals:

### SECURING A SAFE AND SOUND HOUSING FINANCE SYSTEM

**Ending Fannie and Freddie as We Know Them.** The President has made clear that it is time to turn the page on an era of reckless lending and taxpayer bailouts, and build a new housing finance system that will provide secure homeownership for responsible middle class families and those striving to join them. The President is encouraged by the leadership of Senate Banking Committee Chairman Johnson and Ranking Member Crapo in seeking to forge bipartisan legislation. The President is also appreciative of the bipartisan efforts of other members of the Senate, such as Senator Warner and Senator Corker. As the President outlined in his housing address in August 2013, he stands ready to work with members of Congress in both parties to enact legislation based on four core principles for reform that will (i) put private capital at the center of the housing finance system, (ii) end Fannie Mae and Freddie Mac's failed business model so taxpayers are never again on the hook for bad loans and bailouts, (iii) ensure widespread access to safe and responsible mortgages like the 30-year fixed rate mortgage, and (iv) support affordability for creditworthy first-time buyers and access to affordable rental housing for middle class families and those aspiring to join their ranks.

### *Making Progress Through Executive Action*

**Creating "myRA" -- A Safe, Easy-to-Use Starter Savings Account to Help Millions of Middle Class Americans Save for Retirement.** Starting to save is just the first step towards a secure retirement. Workers must have a place to invest their hard-earned savings that provides an appropriate balance of risk and return, and many private sector providers do not offer retirement savings options tailored to smaller balance savers. Our retirement system should help these potential savers and encourage them to begin building their retirement security. The President is using his executive authority to create "myRA" (my Retirement Account) -- a new simple, safe and affordable "starter" retirement savings account that will be available through employers and help millions of Americans save for retirement. This savings account would be offered through a familiar Roth IRA Account and, like savings bonds, would be backed by the U.S. government.

WSJ articles:

## Obama Announces New myRA

# Retirement Accounts

## Aimed at Workers Making Less Than \$191,000 a Year; Account Balance Couldn't Go Down

By Damian Paletta And Anne Tergesen

Jan. 29, 2014 6:01 a.m. ET

President [Barack Obama](#) said he is directing the Treasury Department to create a new type of retirement savings account for millions of Americans that would include a government guarantee.

These investments, which Mr. Obama called "myRAs," would serve as a type of starter retirement savings account for millions of Americans, Mr. Obama said Tuesday in his State of the Union address. He is expected to provide more details...

# Bitcoin Advocates Speak Up

## Too Many Rules, Restrictions Could 'Cripple' Virtual Currency, Backer Says

By Robin Sidel

Updated Jan. 28, 2014 7:28 p.m. ET

Bitcoin backers defended the fledgling digital currency at a hearing in New York on Tuesday, one day after prosecutors announced money-laundering charges against prominent bitcoin businessman Charlie Shrem.

In the first of two days of hearings held by New York's top banking supervisor on the topic, prominent bitcoin entrepreneurs such as Cameron and Tyler Winklevoss acknowledged potential benefits of setting certain rules on the...

# U.S. Short-Term Borrowing Costs Edge Higher

## Treasury Pays 0.05% to Sell \$10 Billion of Four-week T-bills in Latest Auction

By Min Zeng

Jan. 28, 2014 2:22 p.m. ET

The U.S. government is starting to pay higher rates to borrow very short-term debt as investors gird against another debt-ceiling impasse in the weeks ahead.

The U.S. paid 0.05% to sell \$10 billion of four-week T-bills in its auction on Tuesday. In the previous three sales of debt with the same maturity, the government has paid nothing to borrow for four weeks.

While the U.S. government continues to benefit from historically...

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**Subject:** 2/10/14 WSJ article  
**Date:** Monday, February 10, 2014 8:03:02 AM

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# Tokyo-Based Bitcoin Exchange Uncovers a Glitch

By Paul Jackson

Feb. 10, 2014 5:57 a.m. ET

TOKYO—Tokyo-based bitcoin exchange Mt. Gox said it identified a technical issue related to third-party transactions of the crypto-currency, following unusual activity in bitcoin wallets in recent weeks.

In a Monday statement, Mt. Gox said the software bug could affect all bitcoin transactions to third parties and needed to be addressed in cooperation with the core development team of the payment system.

"The problem we...

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**Subject:** 3/4/14 TNT articles bitcoin, 871(m), and sun capital  
**Date:** Tuesday, March 04, 2014 8:08:14 AM  
**Attachments:** [sheppard on bitcoin.pdf](#)

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## Dividend Equivalent Withholding Delta Test Produces Fair Result, IRS Official Says

by [William R. Davis](#)

The dividend withholding delta test under the proposed section 871(m) regulations (REG-120282-1 0 ) is a much better way to determine contracts covered by that section than the now defunct seven-factor test, said IRS officials at the Federal Bar Association Section on Taxation meeting in Washington on February 28.

Mark Erwin, branch 5 chief, IRS Office of Associate Chief Counsel (International), said that after Treasury released the seven-factor test, it received hundreds of pages of comments from taxpayers saying the rules were unadministrable and that people could plan around them. (Prior coverage .)

"We wanted to tighten it up and create a factor that would treat instruments consistently," said Erwin, adding that under prior rules a taxpayer could hold a derivative that approximates the economics of the underlying transaction but isn't subject to the tax. "We want those two instruments to be taxed equally."

Michael Bauer of KPMG LLP asked Erwin why the government scrapped a test for abusive transactions in favor of something broader, like the single factor test.

"There are several reasons we went to that standard," said Erwin. "The primary overriding reason is that we felt that's what Congress intended. When we read the statute, it says that after a certain period of time everything will be covered unless it is of the type that does not have a potential for tax avoidance."

Erwin added that after speaking with broker-dealers, the government chose the delta because it is already widely calculated and reasonably available because traders use it to determine the number of shares they will have to hold to hedge a transaction.

The proposed regs define a section 871(m) transaction as any securities lending or sale-repurchase transaction, specified notional principal contract (NPC), or specified equity-linked instrument (ELI). A specified NPC or ELI is defined as an NPC or ELI that has a delta of 0.70 or greater when the long party acquires the transaction. The proposed regs provide that the delta of an NPC or ELI is the ratio of the change in the fair market value of the NPC or ELI to the change in the FMV of the property referenced by the NPC or ELI. The delta of a transaction must be determined in a commercially reasonable manner.



Asked whether the 0.70 standard for the delta is too low, Erwin said the argument for the delta being too low is there is still a lot risk on an option that is close to 0.70.

"But that's not how we see it," said Erwin. "We are not coming out with 0.70 as the lowball offer. We ran a lot of numbers and talked to broker-dealers." He said the reg drafters started with the idea of testing delta at 0.50 because at that figure, you are at the money -- meaning the price that an option holder can pay to execute the contract equals the value of the underlying asset -- and sometimes in the money. However, the drafters believed that moving the delta to 0.70 gives taxpayers a cushion because typically they are already deep in the money at 0.70.

Karen Walny, attorney, IRS Office of Chief Counsel, acknowledged that the delta moves over time and said that is why the regs have a cushion and test the delta at the acquisition of the holder. "At the time they acquire [the derivative], we want [the taxpayers] to know whether they are in or out, which was a problem with the old standard," said Walny. "We want to know whether they have the sufficient economics that we are looking to capture, and we think that 0.70 is a good reflection of the economics that we would want to capture."

Asked whether the government would consider freezing the delta at issuance or creating an antiabuse rule, Walny said that when instruments are structured, taxpayers would expect the delta to go up in value over time, and that that is what is seen in the marketplace. "With regard to freezing the delta at issuance, we believe the delta at acquisition is a more accurate reflection [of] the acquirer's economics," said Walny.

"There is a concern that if we didn't [test delta at acquisition], then people could take advantage, and this test isn't meant to be a tax avoidance test," said Walny.

## **Supreme Court Won't Hear *Sun Capital* Private Equity Trade or Business Case**

by [Amy S. Elliott](#)

The Supreme Court on March 3 denied certiorari to three private equity funds, one of which was found by the First Circuit on July 24 to have engaged in a trade or business for purposes of the ERISA multiemployer pension termination liability rules, which reference the tax law concept of trade or business.

Victor Fleischer, a professor at the University of San Diego School of Law, said that while the development isn't too surprising, it doesn't necessarily mark the end of the issue. "The Court doesn't take many cases, and while the petitioners did a great job trying to make the case that the decision created a circuit split, the Court wasn't persuaded. But that doesn't mean it won't reach the Court at some point down the road," he said.

"There's a wide range of inferences you could draw from cert being denied, but one of

them is that we don't need the U.S. Supreme Court to clarify the law" in this case, said Steven M. Rosenthal of the Urban-Brookings Tax Policy Center. "The First Circuit and every other independent person that's looked at this issue has concluded that private equity is a trade or business," he added.

None of the parties to the case were available to comment before press time.

### **Procedural History**

The Sun Funds, which were lumped into two groups -- only one of which the First Circuit found failed the first prong of the ERISA liability test -- sit under Sun Capital Advisors Inc. and in 2007 acquired Scott Brass Inc., which later stopped contributing to its employees' multiemployer pension plan and went bankrupt.

The Sun Funds argued that they weren't liable for Scott Brass's share of vested but unfunded benefits, which totaled more than \$4.5 million. Under the ERISA liability test, each Sun Fund will be liable if it was generally engaged in a trade or business and it owned 80 percent of Scott Brass. The First Circuit (*Sun Capital Partners III LP v. New England Teamsters & Trucking Industry Pension Fund*, No. 12-2312 (1st. Cir. 2013) ), reversing the U.S. District Court for the District of Massachusetts, reached its conclusion that one of the funds was engaged in a trade or business by attributing the actions of the fund managers to the fund.

### **Briefs for and Against Review**

On November 21, 2013, the funds filed their petition for review by the Supreme Court, arguing that the First Circuit "obliterated [the Supreme Court's] clear line between an investor and a 'trade or business.'" The funds cited a number of important tax cases -- *Higgins v. Commissioner*, 312 U.S. 212 (1941), *Whipple v. Commissioner*, 373 U.S. 193 (1963), and *Commissioner v. Groetzinger*, 480 U.S. 23 (1987) -- as showing that "an entity is not a 'trade or business' under section 162(a) if its only activity is making and managing investments and its only income is a return on investments." (Prior coverage .)

But the pension plan -- the New England Teamsters and Trucking Industry Pension Fund (TPF) -- opposed review at this stage, noting that "there is no final judgment and the record is not fully developed." The TPF also argued that the decision by the First Circuit was consistent with *Higgins* and *Whipple*.

In its opposition brief, the TPF said that the funds' "assertion that there is a conflict among the circuits is simply incorrect. They have 'manufactured' a conflict by falsely alleging that the First Circuit's decision is contrary to the holdings of the Seventh Circuit in *Central States, Southeast & Southwest Areas Pension Fund v. Messina Products, LLC*, 706 F.3d 874 (7th Cir. 2013) and the D.C. Circuit in *Connors v. Incoal, Inc.*, 995 F.2d 245 (D.C. Cir. 1993) on the issue of 'trade or business.' In fact, the

First Circuit specifically relies upon the reasoning in both these cases to support its decision that Sun Fund IV is a trade or business under MPPAA rather than a 'passive investor.'"

The Private Equity Growth Capital Council (PEGCC) filed an amicus brief in support of Supreme Court review. In it, the PEGCC argued that "making and deriving income from investments, and paying general partners or affiliated firms to manage those investments, does not constitute a 'trade or business' for purposes of the Internal Revenue Code," and that to find otherwise would expose investors to "potentially crippling withdrawal liability for engaging in conduct common to private equity investment."

It argued that the First Circuit decision has created "confusion and uncertainty" in an area -- the understanding of trade or business for ERISA -- that was previously considered "settled" and "bedrock," adding that "the implications of the decision are serious enough to warrant this Court's immediate review."

In a November 4 op-ed in *The New York Times*, PEGCC President Steve Judge insisted that "it is pure speculation to assume [that the *Sun Capital* case] will have any bearing on established tax law that has been in place for a century."

### **Camp Wades In**

On February 26 House Ways and Means Committee Chair Dave Camp, R-Mich., released a draft comprehensive tax reform plan that proposes to change the tax treatment of carried interest by treating a share of a service partner's income as ordinary, not capital. (Prior coverage .)

In the section-by-section summary of the plan, Camp writes that a partnership "that is in the business of raising capital, investing in other businesses, developing such businesses, and ultimately selling them, is in the trade or business of selling businesses." The summary doesn't mention the *Sun Capital* case.

"Every independent party considers private equity a business . . . even Chairman Camp," said Rosenthal, who first offered the developer theory that appears in Camp's summary and is cited in the First Circuit's *Sun Capital* decision. "In my view, the industry should apply the law, not wishful thinking." (Related viewpoint .)

Fleischer said the Camp proposal is interesting "because it shows that Ways and Means is well aware of the trade or business issue. It would not surprise me to see legislative action addressing the ERISA issue, and it's not clear which direction that would point."

Fleischer added that policymakers "have to decide whether to respect all the different legal entities involved in fund management as separate entities, or whether we should group them together more frequently for tax, ERISA, and other regulatory purposes. The area has been highly formalistic for a long time, but the winds are blowing in the

other direction now."

In a statement following the Camp release, Judge wrote, "It is so disappointing that Chairman Camp chose to single out private equity investment by exacting a 40 percent tax increase that will discourage new investment. . . . It is our hope that as the debate over tax reform unfolds, policymakers will utilize the opportunity to reform the tax code as a way to encourage, not undermine, capital investment in America."

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**Subject:** 6/26/13 WSJ article  
**Date:** Wednesday, June 26, 2013 7:24:55 AM

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# States Put Heat on Bitcoin

## Letters Warn Exchanges to Follow Money-Transmission Laws or Be Closed Down

- ROBIN SIDELand
- ANDREW R. JOHNSON

State regulators are warning virtual-currency exchanges and other companies that deal with [bitcoin](#) that they could be closed down if their activities run afoul of state money-transmission laws, according to people familiar with the matter.

According to people familiar with the situation, banking regulators in California, New York and Virginia in recent weeks have issued letters telling the companies that they need to follow the state rules or prove that the rules don't apply to them.

The warnings fall short of formal "cease and desist" orders, which would demand that the companies immediately stop engaging in their business, these people said.

Still, the moves show that state regulators have moved beyond merely scrutinizing virtual currencies and now are taking steps to prevent people and companies from using them for illegal activities. Federal regulators already are cracking down on virtual currencies.

Similar actions are expected from other states in coming weeks and months, according to people familiar with the matter. California, New York and Virginia are three of the 48 states that require the companies to obtain money-transmission licenses to operate. South Carolina and Montana don't have such rules.

The money-transmission rules vary among states, but most require detailed financial data, business strategy and information about the company's management. States also typically require companies to put up a bond that could run as high as several million dollars.

### Bits and Pieces

¶ ¶ ¶ "The actions aren't related to the announcement last week that Mt. Gox, the largest [bitcoin](#) trading exchange, has halted withdrawals of customer funds in U.S. dollars. The Tokyo company said it was making system improvements.

Unlike dollars or euros that are backed by a central bank, bitcoin users can create the units in a process called "mining." Users also can trade the currency on a number of exchanges or swap it privately.

The state actions come three months after federal regulators issued guidelines placing virtual-

currency exchanges under the same comprehensive anti-money-laundering requirements as traditional money-transmission businesses such as Western Union Co. WU +0.92%. Since then, a handful of bitcoin exchanges have registered with the U.S. Treasury Department's Financial Crimes Enforcement Network.

The California Department of Financial Institutions has issued at least three warnings to bitcoin-related companies in recent weeks, according to people familiar with the actions. One of the recipients is the Bitcoin Foundation, an industry-backed group that promotes the digital cash.

Patrick Murck, general counsel for the Bitcoin Foundation, said it is a nonprofit organization and doesn't engage in money transmission. The group is formulating its response to the letter it received from regulators last week.

A spokeswoman for the California banking department declined to comment on the warning letters, saying the communications are confidential and "the goal is safety and soundness and compliance with the laws that DFI enforces."

California is particularly important to the bitcoin community because many of the startup companies that are tied to the virtual currency are based there. California and New York are known for having stricter money-transmission laws than other states.

"Bitcoin businesses are spending a lot of time and energy figuring out how to stay out of California," said Peter Vessenes, chief executive of CoinLab, a Bainbridge Island, Wash., company that has registered as a money-services business with the Financial Crimes Enforcement Network. CoinLab is waiting to launch any exchange-related services until it gets its "state licensing strategy sorted," said Mr. Vessenes, who also is chairman of the Bitcoin Foundation.

The New York Department of Financial Services issued a similar letter to BitInstant, a New York company that allows customers to buy and sell bitcoins. The company earlier this month alerted customers on its website that it wasn't accepting cash deposits "as we make steps to transition to our new website."

Charlie Shrem, chief executive of BitInstant, couldn't be reached for comment. The company has registered as a money-services business with federal regulators.

"Virtual currency firms inhabit an evolving and sometimes murky corner of the financial world," Benjamin Lawsky, superintendent of New York's Department of Financial Services, said in an interview.

"The extent and nature of their operations morph constantly, so it's important for regulators to ask the hard questions and stay ahead of the curve in order to root out dangerous or illegal activity," he said.

In Virginia, a company called Tangible Cryptography suspended the purchase of the currency through its service called FastCash4Bitcoins after receiving a letter from state regulators who received a complaint that the company was operating as an unlicensed money transmitter, according to a notice on its website. Company representatives couldn't be reached for comment.

Tangible Cryptography said on its website that its activity is exempt from licensing requirements and that the commission's initial assessment contained factual errors.

"While we respond to the commission's notice, the prudent action is for the company to suspend all new transactions," the company said.

A spokesman for the Virginia Bureau of Financial Institutions declined to comment on whether it has issued similar notices to other companies.

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**Subject:** 10/23/13 TNT and WSJ articles  
**Date:** Wednesday, October 23, 2013 6:52:42 AM  
**Attachments:** [1092 qualified covered call letter.pdf](#)  
[muni bond stats.pdf](#)

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## **J.P. Morgan Faces Another Potential Huge Payout**

Investors Are Seeking at Least \$5.75 Billion Tied to Mortgage-Backed Securities

## **Buyout Firms Resurrect Precrisis Debt-Financing Tool**

Neiman Marcus Deal Sees Re-emergence of 'PIK Toggle' Bonds

Buyout firms are pulling some risky debt-financing levers that were big hits during the boom years before the financial crisis—the latest example: so-called pay-in-kind, or PIK, toggle bonds

## **Bitcoin Poses a Challenge for Law Enforcement**

Rise of Virtual Currency Makes It Harder for Officials to Track Criminal Activity



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**Subject:** 11/19/13 WSJ articles on bitcoin and mortgage settlement  
**Date:** Tuesday, November 19, 2013 7:49:50 AM

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# Authorities See Worth of Bitcoin

By Ryan Tracy

Updated Nov. 18, 2013 11:56 p.m. ET

WASHINGTON—Senior U.S. law-enforcement and regulatory officials said they see benefits in digital forms of money and are making progress in tackling its risks. The price of bitcoin, the most common virtual currency, soared to a record following the comments.

U.S. authorities, appearing Monday at the first-ever congressional hearing on virtual currencies, outlined the pitfalls and promises of bitcoin amid concern the anonymity and decentralized nature of some virtual currencies can help facilitate crimes. The hearing provided a financial lift to bitcoin as U.S. officials, who have previously highlighted the currency's role in money laundering and other illicit activities, called it a "legitimate" financial service.

"The Department of Justice recognizes that many virtual currency systems offer legitimate financial services and have the potential to promote more efficient global commerce," Mythili Raman, acting assistant attorney general for the department's criminal division, said in testimony before the Senate Homeland Security and Government Affairs Committee.

Federal Reserve Chairman Ben Bernanke, who didn't attend the hearing, said in a letter to senators that virtual currencies "may hold long-term promise, particularly if the innovations promote a faster, more secure, and more efficient payment system."

The price of bitcoin soared early Monday after the officials' statements were widely reported. On one exchange, Tokyo-based Mt. Gox, the price topped \$700. Bitcoin traded at about \$13 in January.

The total market capitalization of the bitcoin economy now exceeds \$8 billion based on recent prices, according to the website Bitcoincharts.com.

The congressional hearing is the first of two being held this week, with the Senate Banking Committee expected to hear from a senior Treasury Department official and a Massachusetts banking regulator on Tuesday. Despite interest in bitcoin, Monday's hearing was attended by only one member of the Senate panel, Sen. Tom Carper (D., Del.), who chairs the committee. Other senators were still en route to Washington after spending the weekend in their home states.

Sen. Carper didn't outline any legislative proposals for digital money and said he was focused on gathering information. "Virtual currencies, perhaps most notably bitcoin, have captured the imagination of some, struck fear among others and confused the heck out of the rest of us, including me," Sen. Carper said.

Bitcoin is a 4-year-old virtual currency that isn't backed by a central bank and can be traded on a number of exchanges or swapped privately. Its price has vaulted to records in recent weeks, fueled by investor views that the virtual currency can have a credible future as an alternative to traditional methods of payment. A number of merchants are accepting bitcoin as payment because the transaction costs associated with the currency are generally lower than those with credit or debit cards.

The skyrocketing prices of bitcoin, along with the use of the currency by both online and brick-and-mortar retailers, have caught Washington's attention. Regulators have warned money-transfer businesses they must follow the same rules as established financial institutions, including complying with anti-money-laundering laws. Authorities have begun meeting with other government agencies to follow new developments, including one led by the Federal Bureau of Investigation that is tracking emerging threats related to the technology. Last month, authorities disclosed they took down Silk Road, an online marketplace for illicit goods that used bitcoin as a form of payment.

Ms. Raman said that while the anonymity of virtual currencies appeals to criminals and poses a challenge for law enforcement, U.S. authorities have "been able to keep pace with that, and we've been able to develop protocols and strategies to address it."

At Monday's hearing, officials from the U.S. Secret Service, which investigates counterfeit currencies, and the Treasury Department's Financial Crimes Enforcement Network detailed successful investigations into criminals using bitcoin or other currencies.

Jennifer Shasky Calvery, director of the Financial Crimes Enforcement Network, said virtual currency transactions are still relatively small in value compared with global criminal proceeds.

She said she didn't believe the virtual currencies had exposed significant gaps in current law. "We feel like we have a pretty good basis to act," she said. Ms. Shasky will attend Tuesday's Senate Banking Committee hearing.

Sen. Carper said he is "encouraged that maybe it's possible to have the benefits of virtual currencies and to actually be able to not facilitate" criminal activity.

However, he also expressed concern that virtual currencies are being used for crimes, including "selling weapons, child pornography and even murder-for-hire services."

## J.P. Morgan, U.S. Reach Historic

# Settlement

## **Some \$4 Billion in Aid to Homeowners Was Final Hurdle in \$13 Billion Accord**

By Devlin Barrett and Dan Fitzpatrick

Updated Nov. 18, 2013 9:13 p.m. ET

J.P. Morgan Chase & Co. and the Justice Department Monday agreed to a landmark \$13 billion settlement that resolves a number of legal headaches for the largest U.S. bank, clearing the way for a public announcement as soon as Tuesday, according to people familiar with the talks.

They added that the final piece holding up the deal—terms of \$4 billion worth of aid to distressed homeowners—was completed Monday.

The historic...

**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Fahey Douglas A](#); [Welsh Donna J](#)  
**Subject:** 11/21/13 WSJ article on virtual currency  
**Date:** Thursday, November 21, 2013 7:40:10 AM

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# Virtual-Currency Craze Spawns Bitcoin Wannabes

## Entrants Include Litecoin, Worldcoin and Even Bbqcoin; a Ticket to Fortune?

Gary Thomas plans to get rich off virtual currencies—but not bitcoin. The electrical engineer is betting big on newcomers like alphacoin and fastcoin.

Mr. Thomas started trading the digital currencies from his home outside Boston earlier this year. He said he is convinced this is his ticket to fortune, even after an earlier attempt—investing in Internet stocks during the dot-com bubble—ended in disaster.

[Enlarge Image](#)

"I think this is a point in history that will never be repeated," said Mr. Thomas, who is in his 50s. "These things will take off like nobody will imagine."

A "cryptocurrency" craze has spawned more than 80 entrants, from peercoin and namecoin, to worldcoin and hobonickels. In October and November alone, developers launched gridcoin, fireflycoin and zeuscoin. Bbqcoin has enjoyed a renaissance after a false start in 2012. Litecoin, launched in 2011, has turned into the strongest bitcoin alternative.

Virtual-currency experts credit bitcoin's explosion into the public consciousness for a flurry of new currencies—and an increasing legion of fans hoping to make a quick buck trading them. Bitcoin, launched in 2009, fetched about \$548 a coin as of late-afternoon Wednesday in New York, making all the existing bitcoin worth about \$6.6 billion, according to CoinDesk.com, which averages bitcoin prices across exchanges. Its rise sparked hearings on Capitol Hill this week during which enforcement agencies described it as a legitimate currency but expressed worries that it could be used for illegal activities.

That was a golden moment for the cryptomania. Bitcoin prices soared as high as \$781.82 on Monday, before plunging. Some other digital currencies jumped, as well.

Bitcoin was invented by an unidentified person or group going by the name of Satoshi Nakamoto. A finite number of bitcoin can be created, or "mined," by using computers

to find solutions to complex math problems. The bitcoin can then be traded digitally. Investors also buy and sell the coins via online exchanges, and a few merchants accept virtual currencies as payment for goods and services.

The new coins generally use the same basic principles as bitcoin but have slightly different algorithms or rules that can speed up transactions or change the frequency and difficulty with which the coins are awarded.

Because none of the coins are as widely accepted or used as bitcoin, investors place a fraction of bitcoin's value on the upstarts.

Many of the new coins trade on exchanges such as Cryptsy, of Delray Beach, Fla., a unit of Project Investors Inc., and BTC-e.com. Cryptsy founder Paul Vernon said his exchange has handled as many as 33,000 trades in a day from enthusiasts such as Mr. Thomas.

A pool of day traders also has popped up, trying to take advantage of rate discrepancies on different exchanges to make money.

One bbqcoin, for example, traded at about 0.00000474 bitcoin on Cryptsy Wednesday afternoon. One litecoin bought 0.01331025 bitcoin and one krugercoin bought 0.00000024 bitcoin.

Greg Schvey, head of research for the Genesis Block, a New York research and data firm that tracks digital currencies, said the sheer number of new currencies being launched "can be distracting."

Many of them likely won't succeed and will ultimately be worthless, Mr. Schvey said. "These coins are only as good as the next person who is going to accept it," he said.

A couple of the coins weren't even created as a serious venture.

Andy Pilate, a software coder who also goes by the name Cubox, in July 2012 rolled out bbqcoin, "just for 'fun,'" according to his post on [bitcointalk.org](http://bitcointalk.org), a digital-currency online forum. Many of the forum's users derided bbqcoin for being a clone of other currencies and for making light of virtual currencies. It quickly disappeared.

But earlier this year, some of its original supporters resurrected bbqcoin. Now, a couple of merchants even take it as payment.

Taylor Minor, owner of the Stoney Creek Roasters coffee shop in Cedarville, Ohio, mines bbqcoin and takes it in his shop. In October, he made his first bbqcoin-denominated sale to a friend, who bought two servings of Cookies and Cream ice cream for 7,000 bbqcoins. "It kind of brought my two worlds together of food and cryptocurrencies," he said.

Mr. Pilate, who is 17 years old and studying computer science in Paris, said he hadn't paid much attention to the coin since abandoning it. "It makes me happy that finally people are using it," he said.

Litecoin has emerged as the strongest alternative to bitcoin, with a market capitalization of about \$176.8 million as of late afternoon Wednesday, according to [coinmarketcap.com](http://coinmarketcap.com), which tracks the market capitalizations of virtual currencies.

Litecoin is designed to process transactions four times faster than the bitcoin network while sacrificing some efficiency in the mining process, said bitcoin creator Charlie Lee, who is now a software engineer at Coinbase Inc., a startup that seeks to make it easier for merchants to take bitcoin.

A few vendors now accept bitcoin, as well. For example, Bees Brothers, which sells honey and caramels in North Logan, Utah, takes bitcoin and bitcoin.

Some bitcoin supporters say they don't feel threatened by bitcoin.

Jinyoung Lee Englund, a spokeswoman for the Bitcoin Foundation, a Washington-based nonprofit that promotes bitcoin, said she thinks the currencies can coexist in the same way investors use more than one commodity as a store of value. "If bitcoin is like gold, bitcoin is like silver," she said.

Mr. Thomas, who mined his digital coins using his computer, says many more currencies will gain value. He is confident his pile, which he said is now worth about 8 bitcoins, or about \$4,384, will be worth more than \$10 million by next November.

"There have been so many times where in the past, I've been right at the right spot and unwilling to take the big risk, and as a result I look back and say, 'Why didn't I do that?' " he said.

**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Erwin Mark E](#); [Fahey Douglas A](#); [Welsh Donna J](#)  
**Subject:** 12/5/13 TNT, BNA, and WSJ articles (including 871, NII, and bitcoin)  
**Date:** Thursday, December 05, 2013 7:18:09 AM  
**Attachments:** [NII reg article.pdf](#)  
[871 reg article.pdf](#)

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## New IRS Rules Seek to Curb Avoidance Of Taxes on Foreign Investors' Dividends

By [Alison Bennett](#)

Dec. 4 — The government took fresh steps to curb the ability of foreign investors to skirt the withholding tax on dividends paid by U.S. companies, replacing 2012 guidance with regulations (REG-120282-10) setting out a new, more tailored test for tax avoidance transactions.

“When finalized, the proposed regulations will close a wasteful tax loophole that enables non-U.S. investors, like offshore hedge funds, with a way to avoid taxes on dividends paid by U.S. equities,” the Treasury Department said in unveiling the rules Dec. 4.

The guidance is intended to address concerns about transactions that use instruments such as securities loans, sale-repurchase transactions or specified notional principal contracts (NPCs) to avoid U.S. requirements that dividends paid from sources within the U.S. be subject to a 30 percent withholding tax.

The rules implement tax code Section 871(m), enacted in 2010. Treasury said the change is meant to ensure that foreign taxpayers receiving “dividend equivalents”—amounts directly or indirectly measured by reference to U.S. dividends—are taxed in the same way as a foreign taxpayer receiving an actual dividend.

### Simpler Test

The new regulations replace a seven-factor test for determining when a taxpayer has a taxable dividend in certain transactions with a simpler one that practitioners said is more tailored to catch abuses. IRS first proposed the rules (REG-120282-10, T.D. 9572) in January 2012 ([12 DTR G-3, 1/20/12](#)).

The Internal Revenue Service and Treasury also issued final rules (T.D. 9648) for nonresident alien individuals and foreign corporations that hold specified NPCs. The final rules apply to contracts that are contingent on, or determined by reference to, U.S. source dividends and withholding agents.

In the new proposed rules, the government replaced a seven-factor test for determining when a taxpayer has a specified NPC or a specified equity-linked instrument (ELI) with the potential for tax avoidance.

The new test takes a “delta” approach that looks at the ratio of the fair market value of a contract to the fair market value of the property referenced by the contract.

“The Treasury Department and the IRS believe that this delta-based standard will prevent taxpayers from avoiding withholding tax by electing derivative exposure to U.S. equities rather than physical ownership,” the government said in the preamble to the proposed rules.

## Similarity to U.S.-Source Dividends Key, Attorney Says

Philip West, a partner at Steptoe & Johnson LLP and a former Treasury international tax counsel, said Dec. 4 that this approach represents Treasury's view that "If you're invested in something that is closely related to a U.S.-source dividend, it's going to be taxed like a U.S. dividend."

He said Section 871(m) reflected congressional concern about structures that enabled foreign investors to structure their investments through tax havens in order to avoid the U.S. withholding tax. The section was enacted under the Hiring Incentives to Restore Employment (HIRE) Act (Pub. L. No. 111-147) in March 2010 ([52 DTR GG-1, 3/19/10](#)).

West said the new delta approach appears to be looking carefully at the effect of the investment. "They're not going to say that the contract payment is a U.S. source dividend unless the value of the contract moves in tandem with the value of the referenced equity," he told Bloomberg BNA.

The Steptoe & Johnson partner said the test "is more closely tailored to reach the perceived abuse." West said a number of the seven factors in the previous test would have been present in transactions that weren't structured to avoid tax.

## Workability Seen as Critical

Also speaking to Bloomberg BNA Dec. 4, John Harrington, a partner at Dentons LLP, said at first glance the approach appears to be simpler, but it is too soon to tell how well it will work.

"This seems to be much simpler than the seven factors they had before, but once you mechanically start seeing what gets caught by this, it could be much broader or much narrower than what was there before," he said.

"No matter how good an idea or bad idea it is, the most important thing is, can people figure this out fairly easily?" Harrington, a former Treasury international tax counsel, said.

Overall, he said, the new guidance is welcome. "The most important aspect of the new regulations is certainty," he said.

The IRS said the regulations generally will apply to payments made on or after the date final rules are published. The new definition of a specified NPC will only go into effect for payments made on or after Jan. 1, 2016, the government said—a two-year extension that Harrington said "gives everyone time to digest and comment."

## No Easy Solutions

Joseph Calianno, partner and international technical tax practice leader at Grant Thornton LLP, said Dec. 4 that "the IRS and Treasury certainly considered the various comments that they received from practitioners and taxpayers on the proposed and temporary regulations."

He said changes made in the final rules were helpful for withholding agents.

Harrington said it is clear that the government listened to taxpayers in crafting the new regulations, but "this is an area without easy solutions. The fact is that it is very difficult to construct a rule that catches transactions structured to avoid U.S. withholding tax while at the same time not leading to overwithholding due to cascading U.S. withholding tax."

The IRS said comments on the proposed regulations are due March 5, with a hearing set for April 11. Requests to speak and outlines of topics to be discussed at the hearing are also due March 5.



# Volcker Rule Won't Allow Banks to Use 'Portfolio Hedging'

By Scott Patterson

In a defeat for Wall Street, the "Volcker rule" won't allow banks to enter trades designed to protect against losses held in a broad portfolio of assets, according to people familiar with the rule.

The practice, known as portfolio hedging, has become a focal point of regulators drafting the rule, a controversial plank of the 2010 Dodd-Frank financial law that seeks to prevent banks from putting their own capital at risk in...

## Bitcoin Market Gets a Lift From China

### **BTC China, Nation's Biggest Exchange for Currency, Plays Growing Role in Trading**

Updated Dec. 4, 2013 5:05 p.m. ET

BEIJING—Chinese demand has helped fuel a boom in the virtual currency called bitcoin. But even as prices reach new highs, Li Xiaolai says he won't sell.

Mr. Li, 41 years old, is one of China's biggest bitcoin holders, according to a fledgling community of bitcoin watchers in Beijing. The former English test-prep teacher won't disclose specifics but says his bitcoin holdings are "in the six figures with the first figure being one." With bitcoin prices soaring to around \$1,000 each, that makes his stake worth more than \$100 million.

"It's the first time China can lead the world," says Mr. Li, who cites local innovations in chips, web applications and other parts of the bitcoin ecosystem.

China has become increasingly important to the fate of the four-year-old currency, which isn't backed by any central bank and is created through a complicated computing process called mining. BTC China, the country's biggest bitcoin exchange, in the last 30 days averaged 64,000 bitcoin in daily trading volume, according to BTC China Chief Executive Bobby Lee.

Over that period, the exchange accounted for more than one-third of volume world-wide, up from about 20% over the past six months, according to industry tracker Bitcoinity. In November, the price on BTC China jumped four-fold, hitting a record for the exchange of 7,395 yuan, or \$1,214, on Dec. 1.

Attention to bitcoin in the Chinese media has drawn a number of amateur investors into the market. "Our generation doesn't have enough money to invest in property and I don't understand economics well enough to invest in the stock market," says

Xiong Bin, 33, the manager of a beauty salon in China's southern Guangxi region. Mr. Xiong says he started buying in mid-November and now has less than 40,000 yuan (about \$6,600) in the market. "I am grateful for the media coverage," he says, because it allowed him to learn about the currency.

The growth of interest from China is increasingly cited as a reason for the soaring prices, but the actual impact of Chinese demand is difficult to measure. Kacper Ciesla, founder of Bitcoinity, says trading volume on BTC China went up significantly after the exchange removed trading fees.

"Soon after that we had a [global] bitcoin price run up," Mr. Ciesla said via email.

The question for many is how China's role in the market will evolve.

China keeps a firm grip on its currency, the yuan, as well as capital flows inside and outside the country, raising questions about whether it would approve of a virtual currency that can be easily transferred via the Internet and converted. Beijing has moved to clamp down on virtual currencies in the past, with a 2009 statement prohibiting their use to buy "real goods and services." That put an end to QQ coins, a virtual currency distributed by Chinese Internet conglomerate Tencent Holdings Ltd.

Last month, People's Bank of China Vice Gov. Yi Gang said that China won't recognize bitcoin for now, but suggested authorities will tolerate the currency for the present. "If you want to take the risk—and remember that prices rise and fall—it's your business," he told a financial seminar.

The bitcoin market is so "sporadic" at the moment that China doesn't know how it will pan out, leading authorities to choose to wait and watch "what the U.S. is doing," says David Kiang, former chief executive of domestic bank First Sino Bank, who doesn't own any bitcoin. If the market grows to a "significant" volume, "it will be hard for China to accept," he says.

Volatility is another issue. China's newfound wealth has hit up against government investment restrictions in recent years, contributing to a number of booms and busts. Its main stock-market index is at less than half the high it reached in 2007. Other assets that have seen quick run-ups and retreats include coins, tea, ginseng and even caterpillar fungus, which in Chinese medicine is believed to help male virility. Meanwhile, property, a main savings vehicle, has shot up in price and is out of reach for many.

This week, Chinese authorities said they detained three people who they alleged had operated a bitcoin-trading platform called Global Bond Ltd. but shut it down, cheating investors of their money. The platform didn't get the proper licenses to operate in its home in Hong Kong, the authorities said. Phone numbers listed on Global Bond's incorporation documents rang unanswered.

One investor was Xu Yuanda, a 19-year old from Jiangsu province, in eastern China, who says that he sank what was worth more than 12,000 yuan of bitcoin into the site before getting out with 4,000 yuan in September. He says he has moved on to buying

other virtual currencies, adding that his holdings there have more than tripled recently. He hasn't sold yet, he says, but plans "short-term trading."

Many who have bet on bitcoin in China acknowledge the short-term speculation even as they stress the currency's longer-term prospects. Ron Cao, managing director of Lightspeed China Partners, a venture-capital firm that invested \$5 million in BTC China, says he would rather see "a healthier price increase" than bitcoin's recent spectacular rise.

BTC China's Mr. Lee says that the exchange's studies show "the vast majority [on BTC China] are buying bitcoin for investment purposes, hoping that prices will go up in the long term." Bitcoin faces a "bumpy ride" as its circulation value increases, he says.

Bitcoin investors in China say they are aware of the risks, including the lack of a public discussion by top officials on whether, and how, the currency should be regulated.

"At least in the U.S., they are acknowledging it," says Long Yujiang, a 25-year old Chinese from the southwestern city of Chengdu, who says his bitcoin are worth roughly \$200 million at current prices. Last month, the U.S. Senate held hearings on virtual currencies, including testimony from senior law-enforcement and regulatory officials.

Mr. Long, who sells flight-simulation equipment, moonlights as a seller of bitcoin mining machines but plans to sell them only in the U.S., where he says the industry will be "better protected."

Many of China's top bitcoin evangelists have ties to the country's burgeoning start-up culture, which has been bolstered by the spread of smartphones and the success of app developers. Mr. Li, the former teacher, frequents Beijing's Garage Café, which serves coffee but also offers incubator space for entrepreneurs. It is one of the few places in China that accept bitcoin as payment.

On a recent afternoon, a number of Chinese discussed their various bitcoin projects in back rooms while huddled over laptops. In the main café area, a person on stage with a microphone gave a talk on bitcoin.

Mr. Li, a two-pack-a-day smoker, taps his teaching background when talking about bitcoin, with animated lectures punctuated with diagrams he draws on a whiteboard. He has invested some of his bitcoin in ventures related to the currency, including one that would offer savings accounts and pay interest in bitcoin.

Some of the most innovative work, he says, comes from Chinese developers making chips for bitcoin miners. People in China "can see all these things that Americans can only imagine," he said.

He first learned about bitcoin from an article in 2011, while working for New Oriental Education & Technology Group Inc. EDU +0.27% Mr. Li bought Apple shares using

dollars he raised by selling stock in the Chinese education company after its U.S. initial public offering, only to cash out again. This time, he bought \$12,000 worth of bitcoin on the Japan-based exchange Mt. Gox.

Bitcoin aside, Mr. Li says he mostly lives off of 50,000 yuan per year in after-tax income from royalties, mainly for test-prep books. "I don't spend much," he says. "I thought China's property prices are too high so I never bought a house."

## Yield on 10-Year Note Sets Sights on 3% Again

### Expectations of a Fed Pullback This Month Push Up Key Rates

By Min Zeng

Updated Dec. 4, 2013 8:21 p.m. ET

Treasury bond yields rose to their highest level since September amid revived concerns that the Federal Reserve may cut back its \$85-billion-a-month bond-buying program before the end of this year.

Bond prices fell Wednesday, sending the 10-year note's yield to as high as 2.852%, nearing the 3% mark touched this past summer when investors bet the Fed would retreat from buying Treasury and mortgage bonds at its September policy meeting. The yield on the 10-year Treasury note briefly traded above 3% on Sept. 6 for the first...

**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Fahey Douglas A](#); [Welsh Donna J](#); [Erwin Mark E](#)  
**Subject:** 12/20/13 Bitcoin article  
**Date:** Friday, December 20, 2013 7:02:45 AM

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# Bitcoin Evangelists See Path to a Cashless Utopia

By [Michael J. Casey](#)

"We are at the Mosaic stage of bitcoin," says Jeremy Allaire, CEO of Circle Internet Financial, a bitcoin-focused technology startup.

Mr. Allaire's analogy, which compares the projected expansion of digital currencies to the past development of Internet technology, is enticing. When the Mosaic browser, a forerunner to Netscape Navigator, was launched in 1993 its capabilities were limited. But it soon gave rise to more powerful competitors that pushed web access out to all corners of the globe.

Mr. Allaire and other bitcoin investors see a similar trajectory for bitcoin, a digital unit of exchange whose supply is generated by independent "miners" by solving complicated computations problems. They point out that the Bitcoin Foundation, which coordinates development of bitcoin's open-source software, is still only designating it as a beta-version 0.8.6. Other enthusiasts see bitcoin as purely a template for alternative digital currencies, much as Mosaic spawned Internet Explorer, Firefox and Google Chrome.

Both groups are unfazed by Wednesday's announcement from China's biggest bitcoin exchange that it will stop accepting deposits in yuan, a setback that follows other regulator-driven developments that spooked investors and driven almost 40% off the virtual currency's value to the dollar in two weeks. Instead, they're focusing on what they see as the underlying technology's rich promise: a utopian, cashless and globalized society in which trade is free, government intervention is minimal and transaction costs are near zero.

For these true believers, the sharp gyrations in bitcoin markets are a distraction from the far bigger idea that financial liberty is within reach.

Of course, history is filled with technologies that failed to fulfill their promise as game-changers. And in bitcoin's case, there's a Catch-22 dilemma: the incentive to adopt it depends on a sufficiently large number of people doing so. Moreover, some powerful institutions could have an interest in curtailing digital currencies' advance. They include banks, whose participation is likely necessary if the financial system is to be overhauled, and governments such as China's, which currently hold virtual monopolies in currencies.

Nonetheless, a striking array of big ideas is bubbling through the virtual-currency

“ecosystem” – as the community of investors, bitcoin exchanges, computer engineers, security software developers, and “miners” describes itself. And while wild gyrations in bitcoin’s price could scare off the general public, its 50-fold increase versus the dollar since Jan. 1 is also catching headlines and feeding the collective imagination.

Consider the sweeping vision of Richard Olsen, the Zurich-based co-founder of currency trading platform Oanda and a science-driven investment manager. He believes the Internet will become a single global exchange for competing digital coins issued by both private- and public- sector entities and that this could happen within three years if organizations such as banks commit to it.

Mr. Olsen dreams of an end to our “arcane system” of delivering cash and documents to confirm ownership and of replacing it with one where deals are cleared and settled virtually instantaneously. His world would render many financial intermediaries obsolete and would impose market discipline on competing issuers of different currencies, be they governments, companies or even individuals.

For Mr. Olsen, the utopian solution lies not in bitcoin itself but in the cryptography model pioneered by its mysterious founder, the presumably pseudonymous Satoshi Nakamoto. This technology, Mr. Olsen says, will facilitate secure, paperless exchanges and transform a financial system that – even with the prevalence of electronic commerce — remains dependent on cumbersome transfers of cash. If banks issued their own digital currencies instead, they would no longer have to manage the costly business of storing and shuttling cash among themselves and could generate tens of billions of dollars in cost savings for the financial system.

It’s not clear banks would want to upend a system in which they are heavily invested. Already, they have proven reluctant to do business with bitcoin-based operators.

Yet digital coin evangelists aren’t fazed by such resistance – nor by that of China. Circle Internet’s Mr. Allaire argues that, once China fulfills its promise to open up its capital account, it will embrace bitcoin as a way to undermine the dollar’s global dominance. And Mr. Olsen believes a growing community of private businesses and individuals will in any case bypass legacy payment systems, forcing governments and banks to run with the tide rather than swim against it.

If they succeed – and it remains a big “if” – the implications are profound. Widespread currency digitization would make policies such as monetary targets and capital controls redundant. It would force government currencies into competition with digital alternatives, constraining authorities’ ability to manipulate their value. It could let exporters in countries with overvalued currencies such as Greece restore their competitiveness and allow citizens in countries with capital controls such as China and Argentina to buy foreign goods and make overseas investments.

An economy where every transaction is digitally cleared would also generate superior information. Economists could run daily analyses of money flows to devise instantaneous estimates of global demand, supplanting dated and imperfect government surveys.

Whether fact or fantasy, such grandiose ideas are currently motivating investors, computer scientists, lawyers and public policy experts to pursue ground-breaking innovations in digital currencies.

Something big will come of this “tsunami of openness,” as Mr. Allaire calls it. It’s just hard to predict what exactly that is.

# Action Routing Sheet

Request for Signature of Deputy Commissioner SE	i-trak Control Number 2013-41534	Due Date May 3, 2013
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Subject

GAO Draft Report – Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks  
(GAO-13-516)

Reviewing Office	Support Staff Initial / Date	Reviewer Initial / Date	Comment
Office of Chief Counsel			
Duane Gillen, Director Abusive Transaction			
Shenita Hicks, Director, Examination			
Molly Smith Chief, GTI			
Linda Shoemaker, Senior Ops Advisor (CSO)			
Phyllis Grimes, Acting Director, Communications & Stakeholder Outreach			
Laurie Tuzynski, SB/SE Senior Advisor			
Ruth Perez, Deputy Commissioner, SB/SE			
Faris Fink, Commissioner, SB/SE			

## Summary

Note to SB/SE Commissioner Staff: Please send the signed, scanned response electronically to Molly Smith. Return the paper package to SE:S:CLD:PSP:GTI, Chief GTI, NCFB C2-433.

Prepared By Donna Reese-Jacobs	Phone 202-283-1547	Office Location / Building NCFB C2-427	Return to Donna Reese-Jacobs, C2-427
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Prepared By Donna Reese-Jacobs	Phone 202-283-1547	Office Location / Building NCFB C2-427	Return to Donna Reese-Jacobs, C2-427
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**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#); [Fahey Douglas A](#)  
**Subject:** ABA and Bitcoin  
**Date:** Monday, June 30, 2014 11:53:00 AM

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Alan Lederman of ABA left me a message indicating a desire to have someone represent the IRS on a panel to discuss Bitcoin and section 1031. I shall keep you apprised of any developments in this area.

**From:** [Moriarty John P](#)  
**To:** [Fahey Douglas A](#)  
**Subject:** Accepted: Bitcoin donations

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**From:** [Fahey Douglas A](#)  
**To:** [Moriarty John P](#)  
**Subject:** Accepted: bitcoins

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**From:** [Moriarty John P](#)  
**To:** [Shepherd Sara P](#)  
**Subject:** Accepted: FW: Call with HSGA staffer on Notice 2014-21

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**From:** [Moriarty John P](#)  
**To:** [Shepherd Sara P](#)  
**Subject:** Accepted: FW: Call with HSGA staffer on Notice 2014-21

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**From:** Moriarty John P  
**To:** "Rochelle.Hodes@treasury.gov"  
**Subject:** Accepted: FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies

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**From:** Moriarty John P  
**To:** "Rochelle.Hodes@treasury.gov"  
**Subject:** Accepted: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies

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**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#)  
**Subject:** Accepted: Updated: What is a Bitcoin??? Room/Call In Info

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## Souvandara Phonesavan

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**From:** Aquí Keith A  
**Sent:** Friday, July 19, 2013 5:03 PM  
**To:** Welsh Donna J  
**Subject:** Accepted: Updated: What is a Bitcoin??? Room/Call In Info

**From:** [Warren Brinton T](#)  
**To:** [Welsh Donna J](#)  
**Subject:** Accepted: Virtual Currency Draft FAQs--Final Edits

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**From:** [Moriarty John P](#)  
**To:** [Fahey Douglas A](#)  
**Subject:** Accepted: Virtual currency

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## Souvandara Phonesavan

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**From:** Aqui Keith A  
**Sent:** Wednesday, July 17, 2013 4:03 PM  
**To:** Welsh Donna J  
**Subject:** Accepted: What is a Bitcoin???

**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#); [Fahey Douglas A](#)  
**Subject:** As Bitcoin tops \$1,200, does its fate rest in China's hands? - on NBCNews.com  
**Date:** Tuesday, December 03, 2013 11:39:47 AM

---

I saw this story on NBCNews.com and thought you'd find it interesting.

\*\* As Bitcoin tops \$1,200, does its fate rest in China's hands? \*\*

A surge in Chinese demand underlies bitcoin's astronomical rise over the past few monthsâ€”the alternative digital currency topped \$1,200...

<http://www.nbcnews.com/business/bitcoin-tops-1-200-does-its-fate-rest-chinas-hands-2D11673316>

For more news, visit <http://www.NBCNews.com>

**From:** [Stahl Raymond J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** Automatic reply: (due Thur Feb 12) - 1099-MISC boxes for foreign tax paid  
**Date:** Wednesday, February 25, 2015 11:04:10 AM

---

I am out of the office until March 16, and may be delayed in responding to your message. Please contact Mark Erwin or Peter Merkel at (202) 317-6938 regarding any urgent matters.

**From:** [Montemurro Michael J](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** Bit Coin Article  
**Date:** Thursday, April 16, 2015 10:32:17 AM  
**Attachments:** [articleid=388768&email\\_access.pdf](#)

---

Donna/Keith — fyi.

Michael J. Montemurro  
CC:ITA:4 – ☎ : 202.317-4744  
Rm. 4243 (enter room 4241)



**From:** [Fahey Douglas A](#)  
**To:** [Keyso Jr. Andrew J](#)  
**Cc:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Bitcoin bits  
**Date:** Thursday, March 27, 2014 5:28:34 PM

---

According to Bitcoin Foundation's website, Overstock.com had sales using bitcoin worth more than 100,000 US dollars on the first day it accepted them. And, Bitpay processed bitcoin transactions worth more than 100 million US dollars in 2013.

**Doug Fahey**  
**202.317.4619**

**From:** [Shepherd Neil D](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Camillo Lynne A](#); [Shepherd Neil D](#)  
**Subject:** Bitcoin Briefing Paper  
**Date:** Thursday, April 16, 2015 12:22:51 PM  
**Attachments:** [Bitcoinpaper v5.docx](#)

---

Many thanks.

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**From:** Aqui Keith A  
**Sent:** Thursday, April 16, 2015 11:13 AM  
**To:** Welsh Donna J; Keyso Jr. Andrew J; Griffin Adrienne E; Stahl Raymond J; Shepherd Neil D; Henkel Melissa A; Dubert Alexa T  
**Subject:** Bitcoinpaper v5

Los Angeles County Bar Association has provided the attached Briefing Paper to be presented at the May 4 meeting.

**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#); [Fahey Douglas A](#)  
**Subject:** Bitcoin Foundation distances itself from indicted board member  
**Date:** Wednesday, January 29, 2014 11:15:52 AM

---

<http://www.washingtonpost.com/blogs/the-switch/wp/2014/01/28/bitcoin-foundation-distances-itself-from-indicted-board-member/>

**From:** [Fahey Douglas A](#)  
**To:** [Keyso Jr. Andrew J](#)  
**Subject:** Bitcoin Is Property Not Currency in Tax System, IRS Says - Bloomberg  
**Date:** Tuesday, March 25, 2014 2:55:51 PM

---

<http://www.bloomberg.com/news/2014-03-25/bitcoin-is-property-not-currency-in-tax-system-irs-says.html>

**From:** [Dubert Alexa T](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Cc:** [Blanchard William E](#); [Rogers John W III](#)  
**Subject:** Bitcoin Notice 1-29-14 treasury version with FIP revised comments  
**Date:** Tuesday, February 04, 2014 3:33:22 PM  
**Attachments:** [Bitcoin Notice 1-29-14 treasury version with FIP revised comments.docx](#)

---

Donna & Keith

In advance of tomorrow's meeting, we are forwarding the draft bitcoin notice with FIP's comments.

Alexa

**From:** [Corwin Erik H](#)  
**To:** [Fahey Douglas A](#); [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Cc:** [Cook Janine](#); [Corwin Erik H](#)  
**Subject:** Bitcoin Notice 3-13-14 CC 5PM with EHC edits.docx  
**Date:** Friday, March 14, 2014 10:28:20 AM  
**Attachments:** [Bitcoin Notice 3-13-14 CC 5PM with EHC edits.docx](#)

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While waiting to hear back definitively from Mireille [REDACTED] (after her (b)(5)  
10:30 meeting), I took another read through and made some other small edits,  
including [REDACTED] (b)(5)

[REDACTED] Let me know your thoughts. I plan to shoot this over to (b)(5)  
OTP as soon as practicable after we hear back from Mireille. For that purpose, it  
would be good to have a draft that is a blackline of our proposed revised version  
against the version they sent us (with all of their changes accepted).

**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Fahey Douglas A](#); [Keyso Jr. Andrew J](#)  
**Subject:** Bitcoin Notice  
**Date:** Thursday, September 04, 2014 4:59:00 PM

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In response to the above, Jackson Mueller of the Milken Institute called to request participation of the IRS at an event.

He may be reached at [JMuedler@Milkeninstitute.org](mailto:JMuedler@Milkeninstitute.org).

**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** Bitcoin Notice  
**Date:** Friday, March 28, 2014 11:52:00 AM

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A taxpayer (not reporter) queries about the treatment of a Bitcoin gift in excess of \$5,000 to a nonprofit organization. Is an appraisal required or may the donor use the rules applicable to gifts of stock?

A commenter also posed this question.



**From:** [Keyso Jr. Andrew J](#)  
**To:** [Moriarty John P](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** Bitcoin pre-call tomorrow  
**Date:** Thursday, February 06, 2014 4:06:54 PM

---

John, Doug and I are both out tomorrow. Would you join Donna Welsh in attending the pre-call on bitcoin tomorrow. Donna certainly can handle it, but I'd like to have someone else on the line from ITA. Thanks.

Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

**From:** [Montemurro Michael J](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** Bitcoin ruling  
**Date:** Wednesday, July 27, 2016 4:06:39 PM  
**Attachments:** [Read the ruling \(.pdf\)](#)

---

Keith — As requested.

Michael J. Montemurro  
CC:ITA:4 – ☎ : 202.317-4744  
Rm. 4243 (enter room 4241)  
[michael.j.montemurro@irscounsel.treas.gov](mailto:michael.j.montemurro@irscounsel.treas.gov)

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#); [Shepherd Neil D](#); [Stahl Raymond J](#); [Hall Charles A](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** Bitcoin security guarantee shattered by anonymous miner with 51% network power | Ars Technica  
**Date:** Monday, June 16, 2014 9:31:39 AM

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Interesting.

<http://arstechnica.com/security/2014/06/bitcoin-security-guarantee-shattered-by-anonymous-miner-with-51-network-power/>

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#); [Stahl Raymond J](#)  
**Subject:** Bitcoin Tax Solutions | Bitcoin Tax Solutions specializes in assisting clients with the proper tax treatment of their bitcoin investing and mining activities  
**Date:** Friday, March 21, 2014 3:23:10 PM

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Here's the website of a bitcoin tax attorney. I'm totally bummed, this was going to be my niche second career.

<http://www.bitcointaxsolutions.com/>

**From:** Welsh Donna J  
**To:** Fahey Douglas A  
**Cc:** Aqui Keith A; Welsh Donna J  
**Subject:** Bitcoin Transaction Draft  
**Date:** Tuesday, July 30, 2013 10:35:14 AM  
**Attachments:** BitcoinTransactions(checkered).doc

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Hi Doug, Looking at the Virtual World info on irs.gov, here is what i suggest for ITA's piece. I will bring you the Pubs later and will see if there is anything more we need to add to be responsive. This assumes [REDACTED] I will be looking [REDACTED] if you agree with general format, I would like to send to the others so that they can use conforming format.

(b)(5)

Thx

**From:** [Baumgarten Peter J](#)  
**To:** [Welsh Donna J](#)  
**Subject:** Bitcoin update  
**Date:** Wednesday, April 03, 2013 12:07:24 PM

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# Bitcoin is in hyperdeflation

## Bubble or not, the underpinnings of Bitcoin pose problems to its use as a popular currency.

◦ By [Alex Hern](#) Published 02 April 2013 13:01

*Business Insider* 's Joe Weisenthal covers the still-soaring price of Bitcoin — which has now broken \$100 — and puts an interesting spin on the situation: the Bitcoin economy is now suffering hyperdeflation. He writes:

So a few weeks ago, a pizza might have cost you one Bitcoin. Today it might only cost you a fifth of a Bitcoin, which sounds great, but then if you're looking at the above chart, why would you spend anything?

Why would you buy a pizza (or pot or anything else) when tomorrow your Bitcoin will be worth more? With this kind of chart, you'd be insane to do anything but hoard your coins.

So yes, all the hype is great for some folks in the ecosystem, but ultimately there's a reason that over time, government prefer to see their currency slowly depreciate. A surging currency leads to hoarding which kills real transactions.

I've written repeatedly that I think the current price of Bitcoin is the result of a volatile bubble — though I'm no more certain than anyone else as to when that bubble will burst — and that explanation is part of the reason why. The faster the Bitcoin price rises, the fewer actual transactions you'll see being made with it. Insofar as there is a "real" price of the currency, as opposed to the inflated price it's showing now, that must be based on people actually using Bitcoin, rather than hoarding it. While the currency is in hyperdeflation, that won't happen (outside of a few crazy people doing things like selling their houses in it).

But while the bubble-like price of Bitcoin at the moment must be separated from its long-term prospects, those are also harmed by the promise of deflation.

The way the currency works, an ever-decreasing amount of new coins are introduced to the money supply, until 2140, when every coin in existence will have been created. Since Bitcoins can be destroyed — losing the private key for your account is basically the same as shredding your wallet — the economy will actually enter deflation some time before then, even counted in Bitcoin terms. With deflation comes hoarding, as things become cheaper to buy in the future rather than now; and that slump in demand would have the same effect as a permanent recession.

A normal currency could implement some unconventional policy to fight that. A tax on cash holdings, for instance, would serve to drop the real interest rate low enough to prompt some spending again. But that can't happen with Bitcoin, where holdings are anonymous by default, and – let's be honest, here – a large proportion of the actual use of the currency is criminal in nature.

Bubble or not, the underpinnings of Bitcoin pose problems to its use as a popular currency. Hyperdeflation may not spark the same populist fear as hyperinflation, but it's just as bad.

**From:** [Blanchard William E](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#); [Rutstein Joel S](#); [Erwin Mark E](#); [Rogers John W III](#); [Goldstein Richard S](#)  
**Subject:** Bitcoin WSJ article  
**Date:** Wednesday, May 08, 2013 7:12:56 AM

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# Bitcoin Startups Begin to Attract Real Cash

## ◦ Venture Investors Pour in Millions, Adding Credibility to Internet Virtual Currency; Regulation Looms as a Concern

By [SARAH E. NEEDLEMAN](#) and [SPENCER E. ANTE](#)

Bitcoin startups are beginning to raise sizable investment capital even as industry leaders warn that hackers are abusing the Internet virtual currency for profit.

In the past year, fledgling businesses Coinbase Inc., Coinsetter Inc. and CoinLab Inc. have raised millions of dollars collectively from prominent venture-capital firms and angel investors, adding credibility to a digital currency that isn't backed by a central bank.

### Bits and Pieces

Mystery still surrounds Bitcoin, but buzz is growing, despite recent wild swings in the currency's value. Here's a rough timeline of the Bitcoin evolution.

On Wednesday, Bitcoin, which can be used to make payments over the Internet without transaction fees or involving a financial institution, is expected to win its biggest validation to date with a \$5 million investment in San Francisco-based Coinbase led by Twitter Inc. investor Union Square Ventures.

That investment would top last month's more than \$2 million put into OpenCoin Inc., another virtual currency startup whose backers include venture firm Andreessen Horowitz.

"This is going to be a trigger point," said Union Square managing partner [Fred Wilson](#) of the Coinbase investment. "You'll see lot more venture money being poured into this space."

Coinbase operates an online service that allows users to buy Bitcoin, store the virtual currency in a digital wallet and pay merchants for goods or services with it. The company was founded last year by Fred Ehrsam, a 24-year-old former [Goldman Sachs](#) [GS](#) [+0.59%](#) trader, and 30-year-old Brian Armstrong, previously an engineer at short-term rental startup Airbnb.

Bitcoin is attracting attention as a wildly volatile, all-digital currency. How does it work? How are criminals taking advantage of it? How risky an investment is it? In this Bitcoin explainer, WSJ's Jason Bellini has "The Short Answer."

In April, the Coinbase co-founders said the company had about 116,000 members who converted \$15 million of real money into Bitcoin, up from \$1 million in January. Mr. Ehrsam



said its dollar conversions are increasing by about 15% a week, and its user base is growing at a weekly rate of about 12%.

"We are in land-grab mode," said Mr. Ehrsam.

Coinbase profits by charging users a 1% fee to convert dollars to and out of Bitcoin. "We have a pretty clear business model," said Mr. Ehrsam. "It's not like we're eating Ramen every day."

Bitcoin is gaining traction with some small merchants and others who want to reduce costs associated with accepting credit cards, such as content-aggregation site Reddit.com, and Human Rainbow Inc.'s OKCupid.com, a dating site. [eBay](#) Inc. [EBAY -0.28%](#) Chief Executive [John Donahoe](#) last month also said the e-commerce heavyweight is exploring ways to integrate Bitcoin into its PayPal payments network.

Supporters of Bitcoin, which was created in 2009 by a person or group that goes by the name Satoshi Nakamoto, say it offers anonymity and a cheap way to transact business across borders. But critics say Bitcoin faces so many regulatory and technical hurdles it will never mature into a mainstream currency.

Last month, Tokyo-based Mt. Gox Co., the largest online exchange trading Bitcoin, said its services were disabled for approximately four hours by an Internet denial-of-service attack.

"Attackers wait until the price of Bitcoins reaches a certain value, sell, destabilize the exchange, wait for everybody to panic-sell their Bitcoins, wait for the price to drop to a certain amount, then stop the attack and start buying as much as they can," according to the exchange.

That volatility is one of the concerns about the currency. Bitcoin rose in value from roughly \$5 in June 2012 to a high of \$266 in April and was down to about \$108 on Tuesday, according to Mt. Gox data.

"If I really sat down and thought about writing a financial disclosure statement, I could probably list dozens of risks," said Union Square's Mr. Wilson.

Carol R. Van Cleef, a partner specializing in emerging payments and anti-money-laundering-compliance at Washington, D.C., law firm Patton Boggs LLP, said government financial reporting regulations likely will make it difficult for virtual-currency startups. The Financial Times reported on Monday that the Commodity Futures Trading Commission is discussing whether Bitcoin might fall under its regulatory jurisdiction.

Regulation is "going to force some players out of the market," Ms. Van Cleef said. Others, she added, "will bite the bullet and become compliant. But it will be expensive."

That isn't stopping venture investors. Jeremy Liew, a partner with Lightspeed Venture Partners, which has invested in three virtual currency startups including OpenCoin, said he's "incredibly bullish" because it allows for cost-free micro-transactions —such as buying a single candy bar —that would be too small for other electronic payments.

"The appeal of zero transaction costs is really strong and extremely disruptive for a massive industry, the payments industry," he said.

Chi-Hua Chien, a general partner at venture firm Kleiner Perkins Caufield & Byers who

found the Facebook FB -2.53% investment while previously working at Accel Partners, said his firm is actively exploring investments related to Bitcoin and has already looked at more than two dozen such companies.

Mr. Chien estimates almost 100 companies are operating in the Bitcoin domain, including exchanges, payment processors and Bitcoin ATM machine operators. "It is completely crazy that money is not borderless," he said. "This is super-logical."

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Bitcoin  
**Date:** Thursday, February 20, 2014 12:50:53 PM

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Andy is free at 2:00. Okay?

Doug Fahey  
**NEW PHONE 202-317-4619**

**From:** Aqui Keith A  
**To:** Fahey Douglas A; Welsh Donna J  
**Subject:** Bitcoin  
**Date:** Wednesday, April 02, 2014 11:30:00 AM

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By voice mail, Bob Dover of Salt Lake City, [REDACTED] an attorney and programmer, has reached out to us on behalf of the Bitcoin Foundation to provide any assistance we need.

(b)(6)

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Moriarty John P](#)  
**Subject:** bitcoin  
**Date:** Monday, February 10, 2014 9:41:23 AM

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Donna, we can dial in to this from my office, assuming you're working from the office today. Is Keith Aqui joining for this?

Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#)  
**Subject:** Bitcoin  
**Date:** Wednesday, March 26, 2014 10:59:00 AM

---

Dan Tannenbaum, (202) 320-7243, left me a message – he would like an IRS representative on a panel to discuss the regulatory requirements of the Notice. I have NOT returned his call.

**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#); [Keyso Jr. Andrew J](#); [Griffin Adrienne E](#); [Stahl Raymond J](#); [Shepherd Neil D](#); [Henkel Melissa A](#); [Dubert Alexa T](#)  
**Subject:** Bitcoinpaper v5  
**Date:** Thursday, April 16, 2015 11:13:00 AM  
**Attachments:** [Bitcoinpaper v5.docx](#)

---

Los Angeles County Bar Association has provided the attached Briefing Paper to be presented at the May 4 meeting.

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Baumgarten Peter J](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** bitcoins  
**Date:** Wednesday, April 03, 2013 1:40:40 PM  
**Attachments:** [FIN-2013-G001\[1\].pdf](#)

---

Fyi...



**From:** Crisalli Donna M  
**To:** Moriarty John P; Fahey Douglas A; Kelley R Matthew  
**Subject:** bitcoins  
**Date:** Friday, June 13, 2014 10:35:16 AM

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<http://www.washingtonpost.com/blogs/the-switch/wp/2014/06/11/expedia-wants-you-to-book-your-next-hotel-stay-with-bitcoin/>

Donna M. Crisalli  
(202) 317-4611

**From:** [Moriarty John P](#)  
**To:** [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Welsh Donna J](#)  
**Subject:** bitcoins

---

**From:** [Moriarty John P](#)  
**To:** [Welsh Donna J](#); [Fahey Douglas A](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** Bitcoins  
**Date:** Thursday, February 27, 2014 9:17:00 AM

---

Erik would like to meet with us at 11:00 to discuss Bitcoins. Are you available at 10:00 to discuss his concerns before the four of us go down?

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Baumgarten Peter J](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** bitcoins  
**Date:** Wednesday, April 03, 2013 1:40:40 PM  
**Attachments:** [FIN-2013-G001\[1\].pdf](#)

---

Fyi...

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** Bitcoins  
**Date:** Monday, July 29, 2013 3:34:13 PM  
**Attachments:** [BitcoinTransactions.doc](#)

---

Here's a start. Pls look at this today if possible. I may continue to work on this in your absence if anything else is required.

**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** Bitoin Notice (Revised 2/05/14)  
**Date:** Wednesday, February 05, 2014 2:06:04 PM  
**Attachments:** [Bitcoin Notice 2-5-14.docx](#)

---

Doug, please find attached the suggestions raised at the meeting earlier today. We hope you can look at them today so we may circulate them. Thanks.

**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** Bitoin Notice (Revised 2/05/14)  
**Date:** Wednesday, February 05, 2014 2:06:00 PM  
**Attachments:** [Bitcoin Notice 2-5-14.docx](#)

---

Doug, please find attached the suggestions raised at the meeting earlier today. We hope you can look at them today so we may circulate them. Thanks.

**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Balacek Victoria](#); [Erwin Mark E](#); [Welsh Donna J](#)  
**Subject:** BNA article on bitcoin, TNT article on Webber investor control, and WSJ article on floating rate notes  
**Date:** Monday, July 20, 2015 7:14:34 AM  
**Attachments:** [image003.png](#)  
[image005.png](#)

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## EU Advocate General Defines Bitcoin as VAT-Exempt Currency

By [Marcus Hoy](#)

July 17 — Bitcoin will be used more often for trade and investment if the Court of Justice of the European Union confirms an advocate general opinion categorizing bitcoin as a currency because transactions will be exempt from value-added tax, David Hedqvist, owner of the trading platform Bitcoin.se, said.

In a July 16 reasoned opinion, AG Juliane Kokott said digital currencies, such as bitcoin, should be considered a currency rather than property or other financial instruments, and therefore shouldn't be subject to VAT in line with the exemption provided for currency transactions under the EU's [VAT Directive](#) (2006/112/EC).

For VAT purposes, bitcoin is more akin to other recognized currencies, Kokott said.

Hedqvist welcomed the AG's opinion in a July 17 statement as it lends support to the case he is currently arguing before the Swedish Supreme Administrative Court.

The case, *Skatteverket v. David Hedqvist* (C-264/14), was brought by the Swedish tax authority to determine whether Hedqvist should be charged VAT on transactions involving bitcoins.

The authority had appealed a lower court ruling to the Swedish Supreme Administrative Court, which requested a preliminary ruling from the CJEU.

Presuming the CJEU takes the same position as the AG, the ruling will only apply to bitcoin currency trades. Other forms of taxation levied on virtual currencies, such as capital gains or income tax on gains in the currency's value, won't be affected by the ruling.

### Categorizing Bitcoin

Ahead of the CJEU's ruling on the case, Kokott examined whether bitcoin could be deemed to be "securities" according to the VAT directive. Article 135.1.f of the directive provides an exemption on transactions in shares, debentures and similar instruments. She found that bitcoin couldn't be categorized as such.

Kokott also examined whether bitcoin could be defined as "negotiable instruments" according to article 135.1.d of the directive, which refers to instruments deriving their value from other currencies and not instruments with their own value. Kokott found that the exemption under this provision shouldn't apply to bitcoin either.

In addition, she examined whether bitcoin could be characterized as "currency" under article 135.1.e of the directive, which refers to transactions concerning currency, bank notes and coins used as legal tender. Gold, silver or other metal coins aren't included in this definition.

Kokott noted that the definition of legal tender appeared to vary in different translations of the VAT Directive. While the German version appeared to limit the definition to official national currencies, other translations—such as the Finnish and Italian versions—appeared to imply a broader scope.

Using this broader definition, Kokott said that the purpose of bitcoin appeared to be the same as that of a traditional currency and the VAT exemption was applicable under this provision.

### EU-Wide Impact

In a July 16 statement provided to Bloomberg BNA, Anders Hultqvist, associate professor of law at Stockholm University, said the AG's opinion and the CJEU's expected preliminary ruling will have a significant impact across the EU.

"The AG's conclusion is that the exchange of bitcoins to Swedish kronor is a service within the scope of the VAT Directive, but also that it is an exempt service according to article 135.1.e," he said.

"This has been one of the hard questions, since there is no national bank or other institution that issues this as legal tender," he noted.

However, the AG found it to be unclear as to what can be defined as legal tender. As such, she



compared different language versions of the VAT Directive and concluded from a more purposeful view that bitcoin are used as tender and exchange, and therefore should be considered to be exempt on these grounds, Hultqvist said.

"Some member states, with good reason, don't define legal tender this way, but the AG has a good point," Hultqvist said. "Bitcoins are used and work mainly in the same manner," he said.

"The result is that the exchange service is exempt from VAT," he explained. No VAT needs to be charged for the exchange of bitcoins to Swedish kronor, nor to any other currency when performed within the EU. "Provided the EU court reaches the same conclusion, those countries who have charged VAT on these services must now change their practice," Hultqvist said.

"The judgment will of course have a great impact in all EU countries, since all of them will have to follow the CJEU judgment," Hultqvist pointed out. "The Supreme Administrative Court in Sweden will certainly deliver a judgment with reference to the CJEU ruling," he added.

#### General Use

While the AG's opinion only refers to currency trades involving bitcoin, David Hedqvist told Bloomberg BNA that it would likely prove beneficial to the general use of bitcoin as an investment and a means of payment. "This means that when it is traded it will be treated much the same as any other currency," he said. "It will not be more expensive for consumers to exchange between bitcoins and other currencies."

"If you look at how it is used as a payment in stores, online and such, it has been gaining traction now over a number of years, I don't think this [opinion] changes a lot there," he said. "But if you look at the bigger picture, now that the rules are clearer, people will be less hesitant to get involved in bitcoin."

The CJEU concurs with the AG's opinion in the vast majority of cases.

Hedqvist added that his legal team had also argued for a VAT-exempt status to be granted on the grounds under article 135.1.d of the VAT Directive, which was rejected by the AG. "It was interesting," he said that the AG went with 135.1.e, which "puts it together with other currencies."

The AG noted that 135.1.e is different in different translations of the VAT Directive, Hedqvist said.

"Because of that it was important to look at the purpose of bitcoins," he added, welcoming the AG's decision to look at the purpose of the exemptions as a whole.

"To us at least, it was obvious that bitcoins should be exempt because if you look at how bitcoin is used and what it is, then it fits very well into that [135.1.e] category."

#### Global Issues

However, Hedqvist noted that differing tax treatment in jurisdictions where bitcoin is used and traded could still cause problems in the future because the CJEU's ruling would only affect trading within the EU. "If you look at the global situation, I think this is something that will be still being discussed for many years," he said. "But it's good that the situation has become clearer here," he added, referring to the EU.

Hedqvist said he now expects the Swedish tax authority to "leave bitcoin alone" and accept the CJEU's decision. "A few months ago, the tax authority published something about bitcoin mining," he noted. In that context, "they came to the conclusion that it was exempt from VAT. The authority here seems pretty reasonable, so I think that they will leave it alone now after this, but of course there will be more discussion."

#### Old Laws, New Technology

"There are other laws, too, that need to be made clearer with regards to where bitcoins fit in" Hedqvist said. "I guess the problem is that when the laws were written there were no such things as bitcoins. It's like a clash between old laws and new technology."

Although he hasn't seen any figures for bitcoin use in the EU, "if you look at the investments in bitcoin companies internationally, it is steadily increasing," Hedqvist said. "I think that in 2015 the numbers will be higher than last year."

Many people "just look at the exchange rate and see that bitcoins are booming one year and crashing the next year and so on," he said, "but if you look at the interest from investors, there has been a steady increase. I haven't seen that so much in Sweden, but internationally this is certainly the case." Hedqvist agreed that other obstacles existed to the virtual currency's acceptance, such as concerns about the potential anonymity of transactions.

"I think that some people will fight it," he said. "To me, it's kind of similar to when the Internet first came into existence, and anyone could get online. People were pointing out that there were all kinds of terrible stuff out there, kids could find out how to build a bomb, that kind of thing."

As time went on, people realized that, on the whole, the Internet was a positive thing, he said. "I think

it's kind of the same with bitcoins. There will be a lot of discussion about the potential for criminality but I don't think that it will be enough to stop it," Hedqvist said.

"I certainly don't think Sweden is the type of country that would actually pass new laws prohibiting bitcoins," Hedqvist added.

## **Webber: Are Insurance Dedicated Funds Superfluous?**

David S. Neufeld

Summary by **taxanalysts**

David S. Neufeld argues that commentators are wrong to interpret the decision in *Webber v. Commissioner* to mean that both parts of the investor control test survived the enactment of section 817(h) in 1986.

David S. Neufeld is a tax lawyer in Princeton, New Jersey, with the Law Office of David Neufeld, where he advises investors and institutions on matters involving private placement life insurance.

In this article, Neufeld argues that commentators are wrong to interpret the decision in *Webber v. Commissioner* to mean that both parts of the investor control test survived the enactment of section 817(h) in 1986. The court stated that only the part dealing with actual control survived, and it did not address the part dealing with insurance dedicated funds.

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There seem to be few areas of tax law more misunderstood and misinterpreted than the investor control rule as it relates to life insurance and annuities. With the Tax Court's recent holding in *Webber v. Commissioner*,<sup>1</sup> one would have thought that some of this might have been cleared up; instead the confusion has multiplied. This is not because the court was wrong or the decision unclear. On the contrary, in my view, the court was both correct and clear (if verbose) in its 92-page opinion. The confusion comes in the failure of many readers and commentators to comprehend the background of the applicable law, which colors one's interpretation of the case and, hence, one's understanding of the investor control rule.

### **Two Parts to the Investor Control Rule**

A dozen years ago, I wrote two articles published in *Tax Notes* analyzing the investor control rule, its history, and the effect of administrative actions taken in 2002 and 2003: "The 'Keyport Ruling' and the Investor Control Rule: Might Makes Right?"<sup>2</sup> and "New Guidance on Investor Control Rule: Road Map or Roadblock?"<sup>3</sup> Aside from my propensity to title articles with colons followed by rhetorical questions, the articles -- primarily the Keyport Ruling article -- traced the development of this IRS-made rule from its origins in a 1977 ruling through the enactment of section 817(h) in 1986. My conclusions were: (1) there are in fact two disjunctive parts of the investor control rule, one that looked primarily at the overt and covert controls exhibited by policy owners (the subjective test)<sup>4</sup> and one that looked at specific structural elements, such as the availability or limited availability of the underlying investments, which has been interpreted as requiring insurance-dedicated

funds (the objective test);<sup>5</sup> and (2) while the subjective test survived enactment of section 817(h), the objective test had been supplanted by section 817(h) as of 1986.

Judge Albert G. Lauber in *Webber* saw this clearly and cited the Keyport Ruling article (in dicta in footnote 19 of the case), agreeing with the second premise and conclusion. However, commentators and writers missed this distinction and are declaring categorically that the entire investor control test, not just the subjective part, survived enactment of section 817(h), as if the case plowed new fields or derived a new, critical wrinkle in this doctrine. But it did not. Some may consider the result of this case obvious given the facts; thus, that the case was even litigated is as surprising as the court's ruling was both expected and fairly simple. The case focused solely and entirely on the subjective test -- applied to a policy owner who exerted way too much control over his investment -- and nothing more. In no way did the case involve or address the objective test, as pointed out by footnote 19. That issue remains to be decided another day, and if Judge Lauber's telegraphed pass is any indication, the IRS is not likely to leave this to the court, given Judge Lauber's hint that section 817(h) had supplanted the objective test.

### **In Walks Mr. Webber**

From my reading of the case, Jeffrey T. Webber seems like a strong-willed individual who, I speculate, could not imagine anyone investing his money better than he could. He might have been right. Through mechanisms best left for other articles to describe and dissect, Webber channeled funds into a private placement life insurance policy. A private placement life insurance policy is a variable universal life insurance policy, the investments of which are held by the insurance company in segregated accounts; it also has other bells and whistles that make the policy attractive to investors with high-taxed investments. Although the funds were owned by the insurance company and putatively managed by an investment manager hired by and beholden to the insurance company, the taxpayer proceeded to allocate these funds (indirectly through his counsel and others) to a variety of "startup companies in which [he] had a personal financial interest." In short, he seems to have treated these funds as if they were his own. Spoiler alert: The court found that Webber violated the subjective part of the investor control test.

### **Enter Judge Lauber**

After a painstaking recitation of the facts, the court laid out the historical underpinning for the subjective part of the investor control test. Citing *Griffiths v. Helvering*,<sup>6</sup> *Corliss v. Bowers*,<sup>7</sup> and *Helfer v. Clifford*<sup>8</sup> -- cases that turn on actions taken, and actual control by, the taxpayers -- Judge Lauber concluded that "the 'investor control' doctrine posits that, if the policyholder's incidents of ownership over those assets become sufficiently capacious and comprehensive, he rather than the insurance company will be deemed to be the true 'owner' of those assets for Federal income tax purposes."<sup>9</sup> The court then draws a straight line from these cases to Rev. Rul. 77-85.

Rev. Rul. 77-85 is putatively the embodiment of the investor control doctrine and is the IRS's first public application of it. It was triggered because the taxpayer in the ruling "possessed such significant incidents of ownership over those assets that he should be considered their owner for Federal tax purposes."<sup>10</sup> As the court points out, "the critical 'incident of ownership' that emerges from these rulings is the power to decide what specific

investments will be held in the account." The court sees this rule as so primal that it describes Rev. Rul. 77-85 as stating the "bedrock principle" that directly connects actual control to the IRS's concept of investor control.<sup>12</sup> The court applies this principle to the facts and finds:

In sum, petitioner actively managed the assets in the separate accounts by directing the Investment Manager (through his agents) to buy, sell, and exchange securities and other property as he wished. These facts strongly support a finding that he retained significant incidents of ownership over those assets.<sup>13</sup>

Nowhere in this analysis does the concept of the objective part of the investor control test arise, and neither do any facts relevant to that inquiry. This is not a question of structure -- that is, of what investments were acquired and in what form. Despite a noble attempt by the taxpayer to invoke section 817(h) as the tool to replace the subjective investor control test, that argument is novel.

As I wrote in the Keyport Ruling article:

Understanding the investor control rule, at least as it existed until 1984, can be summed up in four words: disjunctive dual factor test. This is a concept that seems to have been lost as the doctrine has evolved, and yet one cannot understand and appreciate the rule without seeing it through the prism of this test. The dual factors are (1) subjective criteria and (2) objective criteria. To be found in violation of the investor control test either (1) an insurance policy owner possesses too many rights to control the actual investments held within the variable contract (the subjective criteria), or (2) the segregated account of the variable contract is invested in mutual funds, partnerships or grantor trusts in which the general public may also invest (the objective criteria). However, this dual approach to investor control has been dead since 1984, with enactment of section 817 and its diversification requirement; Congress's *section 817(h) is the sole remaining embodiment of the objective criteria* of the investor control doctrine, *while the subjective criteria of the Service's investor control rule is still alive and well* [notwithstanding section 817(h)]. The effect is that the subjective criteria still determine the quantum and type of power the policy owner may wield regarding the investment choices. At the same time the objective criteria (that is, section 817(h)) now permit a variable contract to invest in a mutual fund with public investors but generally can count that investment as only a single investment for diversification purposes rather than being permitted to look through that fund to the underlying basket of investments. Failure of *either* will make the policy owner, and not the insurance company, the owner of the investments underlying the variable contract for tax purposes.<sup>14</sup> [Emphasis added.]

The court does not test this interpretation of the rule, but instead affirmatively limits its holding to the subjective test -- that is, the actions of the taxpayer -- and cites the revenue ruling for support.


In adopting a regulatory regime to identify situations in which investments 'are made, in effect, *at the direction of the investor*,' Congress expressed no intention to displace the 'investor control' doctrine. That doctrine identifies situations in which investments are made at the *actual direction of the investor*, such that he exercises *actual control* over the

investment account. See Rev. Rul. 77-85. [Emphasis added.]


In coming to this conclusion, the court cites the Keyport Ruling article (in dicta) to support its statement that "the section 817(h) diversification standards may supersede some aspects of the pre-1984 revenue rulings that discuss publicly available investments held by segregated asset accounts."<sup>16</sup> In other words, the need for insurance-dedicated funds may be a vestige of pre-1986 law. The court further states that "Congress did not, expressly or by implication, indicate any intention that section 817(h) should displace the bedrock 'investor control' principles enunciated in Revenue Ruling 77-85, *which address situations where the policyholder exercises actual control over the investments* in the separate accounts."<sup>17</sup> In other words, as asserted in the 2003 article, section 817(h) may have superseded the objective investor control rule even if it did not affect the "bedrock principle" underpinning the subjective part of the investor control test that focuses only on the taxpayer's actual conduct.

Having said all this, are we any closer to knowing whether a court will hold that section 817(h) supplanted the IRS's homemade objective test of the investor control rule requiring insurance-dedicated funds? Frankly, no. Regardless of how one chooses to read footnote 19 and the rest of the *Webber* opinion, the footnote remains in dicta, and another case with other facts decided by another judge can go in whatever direction that judge chooses. What is certain, however, is that Judge Lauber in *Webber* held only that the subjective part of the investor control test was not superseded by section 817(h) -- clearly a result that we did not need any case to tell us.

## FOOTNOTES

<sup>1</sup> 144 T.C. No. 17 (2015) .

<sup>2</sup> *Tax Notes*, Jan. 20, 2003, p. 403  (hereinafter "Keyport Ruling article").

<sup>3</sup> *Tax Notes*, Sept. 1, 2003, p. 1191 .

<sup>4</sup> Rev. Rul. 77-85, 1977-1 C.B. 12; and Rev. Rul. 80-274, 1980-2 C.B. 27.

<sup>5</sup> Rev. Rul. 81-225, 1981-2 C.B. 79; and Rev. Rul. 82-54, 1982-1 C.B. 11.

<sup>6</sup> 308 U.S. 355 (1939).

<sup>7</sup> 281 U.S. 376 (1930).

<sup>8</sup> 309 U.S. 331 (1940).

<sup>9</sup> Slip opinion, at 45.

<sup>10</sup> *Id.* at 50.

<sup>11</sup> *Id.* at 55.

<sup>12</sup> *Id.* at 56.

<sup>13</sup> *Id.* at 67.

<sup>14</sup> The Keyport Ruling article, *supra* note 2, at 404.

<sup>15</sup> Slip opinion, at 82-83.

<sup>16</sup> *Id.* at 83, n.19.

<sup>17</sup> *Id.* (emphasis added).

## Sales of Bonds With Floating Rates Sink

### Investors show doubts about interest-rate increases

By Mike Cherney

July 19, 2015 7:16 p.m. ET

Sales of corporate bonds whose interest payments rise and fall with market benchmarks are down nearly 40% this year, another sign investors are skeptical after several false starts that U.S. interest rates will rise significantly in coming years.

Food conglomerate Kraft Heinz Co., power-plant operator Exelon Corp., regional bank Huntington Bancshares Inc. and energy firm ConocoPhillips have canceled sales of floating-rate notes in recent months. Roughly \$71 billion of floating-rate corporate debt has been sold this year...

**From:** [Blanchard William E](#)  
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**Subject:** BNA articles on REIT conversion, 871 extension, and 385 regs; TNT article on reg preambles and reg text; and WSJ article on bitcoin taxation  
**Date:** Tuesday, June 28, 2016 7:33:14 AM

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## Spinoffs Prior to PATH Act Eligible for REIT Conversion

By [Laura Davison](#)

June 27 — Entities that were spun off before Dec. 7, 2015, are able to merge with real estate investment trusts, the Internal Revenue Service said.

The IRS on June 27 released a [correcting amendment to final and temporary rules \(T.D. 9770\)](#) issued June 7, which said corporations that move property to a REIT within 10 years of a spinoff will be taxed as though they sold the assets at fair market value.

The change grandfathers in spinoffs that took place prior to enactment of a REIT spinoff prohibition in the Protecting Americans From Tax Hikes Act (Pub. L. No. 114-113) in December. The PATH Act restricts C corporations from spinning off real estate assets tax-free into a REIT, a move that had become popular to reduce taxes and increase shareholder value. The June 7 rules added the 10-year restriction ([110 DTR G-4, 6/8/16](#)).

The change, which was expected, will allow NorthStar Asset Management Group Inc., its former parent NorthStar Realty Finance Corp. and Colony Capital Inc. to proceed with their planned merger to form a single REIT with about \$58 billion in assets. NorthStar Asset Management was spun off in 2014, well before the deadline in the regulations.

It is now very clear that the conversion transaction won't be subject to the rigors of the deemed sale rule in the regulations, Robert Willens, a tax consultant in New York, told Bloomberg BNA. The gain that has accrued in NorthStar Asset Management's assets in advance of the deal will only be recognized, and therefore subject to tax, in the unlikely event those assets are disposed of within 10 years of the conversion transaction, he said.

The clarification also “paves the way for other entities spun off prior to Dec. 7, 2015, to convert or merge with an existing REIT,” Willens said. “I'm pretty confident we'll see at least one more.”

## SIFMA Seeks Another Extension of Dividend Equivalent Rules

By [Laura Davison](#)

June 27 — The Securities Industry and Financial Markets Association is asking the IRS to again delay the effective date of dividend equivalent regulations because financial institutions don't have enough time to develop and implement the computer systems needed.

“SIFMA's members have been working intensively since the Regulations were issued to design systems and processes to implement the required withholding and information reporting,” the group said in a [June 24 letter](#). Members “will not be in a

position to implement the Regulations in their current form on January 1, 2017 due, in part, to the overall complexity of the Regulations, and to the absence of additional or final guidance on several key points.”

The group said that financial institutions can't fully develop and implement a system for the regime to collect the 30 percent withholding tax under tax code Section 871(m) until the Internal Revenue Service issues guidance on qualified derivatives dealers, rules for listed options and other instruments held through intermediaries, regulations on combining transactions and guidance for nonqualified indices.

SIFMA is pushing for the IRS to issue more guidance on the final and temporary rules (T.D. 9734) and proposed rules (REG-127895-14) issued in September 2015. The IRS has already once delayed the effective date from 2016 to 2017 after the group said the industry didn't have enough time to implement the regulations ([181 DTR G-2, 9/18/15](#)).

#### Follow-Up Request

SIFMA also wrote a letter in April that said moving too quickly on implementing the rules without giving banks enough time to develop and test the withholding and information reporting mechanisms could disrupt markets ([66 DTR G-1, 4/6/16](#)).

The rules apply to products that produce a dividend-like return, such as securities loans, sale-repurchase transactions, specified notional principal contracts and equity-linked instruments. The final rules increased the delta, a standard that determines which payments should be covered by the rules, to 0.80 and provided clarity on treatment of Section 305 dividends, equity-based compensation, the date on which the delta is determined and the date on which withholding takes place

## Republicans Pressure Treasury on Debt-Equity Regulations

*By Kaustuv Basu*

June 27 — House Ways and Means Republicans are adding to criticism of the Treasury Department's controversial debt-equity regulations, calling the retroactive April 4 effective date for the regulations “inappropriate.”

The tax writers, including Chairman Kevin Brady (R-Texas), said in a letter to be sent early this week to Treasury Secretary Jacob Lew that the effective date should be much later. At the earliest, the rules should apply to debt instruments issued 90 days or more after the Internal Revenue Service publishes final rules. It is unclear when Treasury might finalize the rules, but it is expected to do so this year.

Republicans have been considering a response to the controversial regulations, while Ways and Means Democrats sent a letter June 22 seeking a meeting with Lew ([121 DTR G-9, 6/23/16](#)).

Industry groups have pushed back on the regulations (REG-108060-15) that would give government authority to recharacterize intercompany loans as debt.

#### Delay in Comment Period Requested

In the letter, the Republican lawmakers urged officials to postpone the comment period on the regulations to at least Oct. 5 from July 7. However, the IRS has said it won't back down from that deadline, and has announced a July 14 hearing on the proposed rules.

A bicameral closed-door meeting with administration officials to discuss the regulations and how they affect job creation is being planned, said Emily Schillinger,



communications director for Ways and Means Republicans.

Senate Finance Committee ranking member Ron Wyden (D-Ore.) said policymakers need to take necessary steps to protect the tax base without causing unintended harm. "For that reason, I have been talking with taxpayers, my colleagues on the committee and Secretary Lew to ensure that the cure for the virus isn't worse than the disease. Treasury is working hard to strike the right balance," Wyden said.

The Republican letter said the proposed regulations would affect a broad swath of ordinary business transactions, "creating unacceptably high levels of uncertainty and adverse collateral consequences for non-tax motivated business activity."

It said that Congress did not intend tax code Section 385 to be used for policing corporate inversions and earnings stripping. "We respectfully remind the Treasury that they have co-opted section 385 to use for purposes other than what Congress intended," the letter said.

## News Analysis: When the Preamble and the Reg Text Don't Match

POSTED ON JUN. 27, 2016

By MARIE SAPIRIE

What is the effect of a legal view in a regulation preamble that ventures beyond the scope of the regulation text?

Explanatory preambles have been standard practice for decades, but the views of Treasury and the IRS about what substantive information should or should not be included in them have evidently changed over time. The holding of *Altera Corp. v. Commissioner*, 145 T.C. No. 3 (2015) [Q](#), seems likely to further shape those views. The shift in preamble drafting began in the 1970s, when it was more common to draft short preambles that did not necessarily explain the approach of the regulations. As the craft of preamble writing has evolved, the role and extent of preambles have been enlarged, sometimes in ways that raise significant questions for taxpayers. (Prior analysis: *Tax Notes*, Aug. 17, 2015, p. 710 [Q](#).)

### Rules for Preambles

The content and function of preambles are prescribed in the Internal Revenue Manual, which characterizes them as explanations of the rules in the regulation text. The IRS and Treasury also use preambles to proposed regulations to ask for comments. Under the Administrative Procedure Act, in the preamble to final regulations, the IRS must address and analyze reasonable comments from the public and from within the government. Further, under section 7805(f)(1) and (2), preambles to final regulations must discuss the comments from the Small Business Administration, which is allowed a four-week comment period before the publication of a final regulation that does not supersede a notice of proposed rulemaking.

Reg. section 1.6662-4(d)(3)(iii) lists the documents that may be used in determining

whether there is substantial authority for the tax treatment of an item. It includes proposed, temporary, and final regulations construing the code and other statutory provisions, but it does not expressly list preambles. However, the regulation states that "notwithstanding the preceding list of authorities, an authority does not continue to be an authority to the extent it is overruled or modified, implicitly or explicitly, by a body with the power to overrule or modify the earlier authority." Thus, although preambles are not themselves included in the list of authorities, a statement in a preamble -- which is written by Treasury and the IRS -- could possibly overrule or modify an authority that is listed.


Treasury and the IRS do not regard preambles as parts of regulations. IRM 32.1.5.4 explains that "the preamble contains explanatory information that informs the reader of what is being proposed or adopted and enables the reader to determine whether it is affected by the regulation. The preamble contains no regulation text." The substantive portions of preambles are in the "Background" and "Explanation of Provisions" sections. However, when the regulation affects another form of published guidance, such as a revenue ruling or notice, an additional section titled "Effect on Other Documents" is included. The IRM explains that "the drafting team must notify the Internal Revenue Bulletin Unit of any effect the regulation has on other documents to ensure that the information is printed in the Internal Revenue Bulletin and the effect on other documents is made available to the public."

One of the problems with having legal views in preambles is that they can be difficult for taxpayers to find because they are not reprinted in the Code of Federal Regulations. Monte A. Jackel of Jackel Tax Law said, "If they're going to put expressions of law in regulation preambles, you should be able to find it by doing simple research searches and it should clearly be authority."

If taxpayers want to rely on preamble language that is not reflected in the text of the regulations, they might look to the fact that preambles appear in the Internal Revenue Bulletin, which according to the IRS is its authoritative instrument for announcing all substantive rulings. "I would not hesitate to argue that something in a preamble is something taxpayers can rely on," said Patrick J. Smith of Ivins, Phillips & Barker Chtd. When the IRS invites taxpayers to rely on information in a public release, they will have a valid complaint if the agency later takes a different position, he said.

### **Preambles That Push the Envelope**

Examples of legal interpretations that are suggested in preambles but that are not clearly reflected in the regulation text include the recent [section 108](#) regulations, proposed regulations under [section 707](#), and regulations under [section 409A](#).

In the preamble to final regulations under section 108 (T.D. 9771 ) regarding discharge of indebtedness, language appears to suggest that the agency is reversing its position from a previous legal memorandum. But that language is arguably outside the scope of the regulations, which focus on whether a grantor trust or disregarded

entity qualifies for the bankruptcy or insolvency exclusions in section 108(a)(1). According to an IRS official, the agency did not intend to go beyond the specific subject of the regulations. (Prior coverage: *Tax Notes*, June 20, 2016, p. 1604 [Q](#).)

The proposed regulations under section 707 (REG-115452-14 [Q](#)) on disguised fees suggest an interpretation of Rev. Proc. 93-27, 1993-2 C.B. 343 [Q](#), but the text of the regs does not amend the revenue procedure or otherwise indicate that it would be affected. Nor does the preamble list the revenue procedure in the "Effect on Other Documents" section. The preamble states that the regulation "provides notice of proposed modifications to Rev. Procs. 93-27 and 2001-43 [2001-34 C.B. 191 [Q](#)] relating to the issuance of interests in partnership profits to service providers." It further notes that Treasury and the IRS "are aware of transactions in which one party provides services and another party receives a seemingly associated allocation and distribution of partnership income or gain," giving as an example a management company that provides services to a fund for a fee, which is then waived, while a party related to the management company receives an interest in future partnership profits that is approximately equal to the amount of the waived fee. The preamble then says that Rev. Proc. 93-27 does not apply to these types of transactions. However, this position does not appear in the text of the regulations, Jackel said.

Similarly, in the preambles to proposed (REG-158080-04 [Q](#)) and final (T.D. 9321 [Q](#)) regulations under section 409A, Treasury and the IRS modified Q&As in Notice 2005-1, 2005-1 C.B. 274 [Q](#), without including the modifications in the regulatory texts. (Prior analysis: *Tax Notes*, Apr. 20, 2009, p. 351 [Q](#).)

In several instances, preambles have included a statement that taxpayers can rely on the proposed regulations until final regulations are issued, but then the statement does not appear in the text of the proposed regulations, Jackel said.

### **Impact of *Altera***

In light of the decision in *Altera*, Treasury and the IRS are recalibrating how they draft preambles. IRS Chief Counsel William J. Wilkins said on June 9 that the government might include in future preambles a statement that "what we are doing here is an exercise in statutory interpretation and not an empirical fact-finding" to differentiate the regulation from the situation in *Altera*. (Prior coverage: *Tax Notes*, June 20, 2016, p. 1598 [Q](#).)

Until recently, the IRM explicitly stated that it was unnecessary for preambles to justify the rules that are adopted in the regulations, Smith said. "But that's what preambles should do: They should say why [Treasury and the IRS have] adopted this rule," he said. The arbitrary and capricious standard of the Administrative Procedure Act puts additional pressure on preambles to explain the rationale behind the selection of the particular rules.

The legal effect of a statement in a preamble that is not also included in the text of the

regulations likely depends on whether the statement is directly related to the subject covered by the regulation, Smith said. Statements that are related to the regulations would likely be analyzed under *Auer v. Robbins*, 519 U.S. 452 (1997), which provides that when an agency interprets its own regulations that have the force of law, the agency interpretation is given deference. "To the extent that a statement in the preamble clarifies something that might be unclear in the regulations, that kind of a statement would have a pretty great weight," Smith said. However, if a statement in a preamble is on a separate subject from what is covered in the text of the regulations, it would likely be analyzed under the framework in *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944), and only given weight to the extent that it is persuasive, he said. Statements that fall somewhere in between the poles of "directly related to the subject of the regulations" and "totally different subject" would probably not receive *Auer* deference.

## **The Latest Bitcoin Hurdle: How to Tax It IRS hasn't addressed many important tax matters regarding digital currencies**

Tax questions are one of several hurdles on the path to broader acceptance of digital currencies. Above, a bitcoin sign is seen in Toronto. *PHOTO: REUTERS*

By Laura Saunders  
June 24, 2016 11:14 a.m. ET

A little more than two years after the Internal Revenue Service issued bare-bones guidance on bitcoin and other digital currencies, the agency still hasn't addressed many important tax matters affecting them.

The American Institute of CPAs sent the IRS a letter earlier this month requesting clarifications on 10 issues, including the tax status of small transactions and rules for donating digital currencies to charity.

"We'd like to know the tax rules before they turn into audit issues," says Annette Nellen, a professor at San Jose State University in Silicon Valley, who helped draft the AICPA's request.

The tax questions are one of several hurdles on the path to broader acceptance of digital currencies—money that exists only online and isn't backed by any government. Bitcoin and its smaller rivals, such as ether, ripple and litecoin, are maintained by a network of computers that process and verify transactions using them.

Digital currencies gained favor in 2013 and 2014 when federal and state regulators issued rules for them and businesses such as [Overstock.com](#) **OSTK -3.77 %** and the Sacramento Kings basketball team said they would accept bitcoin payments. But volatility and scandals, such as [the 2014 failure](#) of Mt. Gox, an early bitcoin exchange, put off some investors.

According to Blockchain.info, which tracks bitcoin data, the number of bitcoin transactions a day recently was 240,000, compared with 50,000 two years ago. The price of bitcoin peaked at more than \$1,100 in late 2013 before dropping to a low of about \$200 in early 2015, and it was recently above \$600.

Given this growth, the IRS has already conducted audits of taxpayers holding bitcoin, according to Bryan Skarlatos, a tax lawyer with Kostelanetz & Fink in New York. Some clients under audit paid his fee using bitcoin, he says.

A spokesman for the IRS declined to address specific issues on digital currencies but said the agency values comments it receives, especially from groups of tax professionals.

#### Advertisement

Many bitcoin advocates were delighted with the IRS's first ruling on digital currencies in April 2014. It held that digital currencies are property, akin to real estate or stocks.

Thus the profit on an investment in such currencies can be eligible for favorable capital-gains tax rates if it's held longer than a year, and losses can be used to offset gains. "The ruling was incredibly helpful," says Barry Silbert, CEO of Digital Currency Group, an active investor in the industry.

The downside, for people who want to use bitcoin as a medium of exchange, is that each transaction can involve the sale of investment property. So bitcoin holders who use it to buy lunch could have an investment gain or loss with each sandwich, as they would if they paid with a stock.

Some bitcoin users haven't focused on this requirement. Douglas Hutchings, a solar-power entrepreneur in Fayetteville, Ark., says he has used bitcoin to buy about \$1,500 of products sold through [Amazon.com](http://Amazon.com) **AMZN -1.09 %** at a 15% to 20% discount this year. He has used online company Purse.io to arrange the transactions, but he hasn't thought much about the tax issues. "I need to check, but I think there wasn't much change" between when he bought and sold, he says.

Digital currency experts hope the IRS will exempt "de minimis" bitcoin transactions from onerous reporting, much as U.S. taxpayers don't have to report small gains or losses on foreign currencies they use when they travel abroad. Robert Willens, a New York-based tax expert, thinks the IRS has the authority to allow such an exemption without approval by Congress, but "it will be hard to design an exception that's workable and can't be abused."

Meanwhile, firms are designing software to help with the bookkeeping. Libra.tech, a company based in San Francisco, has a web product that automatically tracks purchases and sales of digital currencies to ease record-keeping headaches.

Others accept digital currencies despite the lack of IRS clarification. Pensco Trust Company, a San Francisco-based firm specializing in the custody of alternative assets in retirement accounts, accepts bitcoin for IRAs if it's within a trust or limited-

liability company.

Fidelity Charitable, a foundation affiliated with Fidelity Investments, is also accepting contributions of bitcoin to its individual charitable accounts known as donor-advised funds.

Thus bitcoin donors could reap a charitable deduction for the full market value of their investment while avoiding tax on its appreciation—a tax break that has long been available to investors in assets like stocks or real estate.

“Fidelity Charitable accepts contributions of bitcoin only from known donors and treats the contribution as we would any other complex asset—it is sold and the proceeds go into a donor-advised fund for grant-making to charities,” says Matt Nash, an executive with Fidelity Charitable.

**From:** [Blanchard William E](#)  
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**Subject:** BNA articles on Wellen and Lee Sheppard on oil loans and WSJ article on bitcoin  
**Date:** Monday, March 30, 2015 7:08:25 AM  
**Attachments:** [image002.png](#)

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## **Robert H. Wellen to Lead Chief Counsel Corporate Office**

**Matthew R. Madara**

The IRS Office of Chief Counsel announced March 27 that Robert H. Wellen of Ivins, Phillips & Barker Chtd. will become the head of the chief counsel's corporate office.

Wellen brings nearly 40 years of tax law experience to the associate chief counsel (corporate) position. He joined Ivins, Phillips & Barker as a partner in 1993 and served in the U.S. Navy Judge Advocate General's Corps from 1971 to 1975. Wellen graduated from Yale Law School in 1971 and received his LLM in taxation in 1975 from Georgetown University Law Center.

The post became vacant in January when William D. Alexander left the IRS after 13 years as head of the corporate office. Alexander praised the chief counsel's selection of his replacement. "He's both eminent and likable. What more could you want?" Alexander told Tax Analysts. "He's a very thoughtful guy -- one of the great thinkers in our field."

Wellen told Tax Analysts he is excited to have been selected for the job. "It's an important job, and the people that have held this job before put me in a group that I'm honored to be in," he said, adding that he is pleased to be joining a "fine and venerable institution with high standards of practice."

When asked what he wants to accomplish in his new role, Wellen said he's "hoping to get important guidance adopted," adding, "Some of it has been out there in proposed form for a while." There's a lot more that must happen in the corporate office, but "a part that I think is important from the public standpoint is guidance of widespread application on these issues," he said.

Wellen said resources and funding are obvious challenges he'll have to confront as he moves into the chief counsel's office, adding, "I have a lot to learn here."

Confirming Wellen's appointment March 27, the Office of Chief Counsel issued a statement that said, "Mr. Wellen will be acting effective in early May, pending [Senior Executive Service] certification by the Office of Personnel Management's Qualification Review Board."

### **Selection Praised**

"This is very exciting news," said Karen Gilbreath Sowell of EY. "Bob is an experienced and thoughtful lawyer, with vast experience and terrific judgment. I was thrilled to learn he would be assuming this important government role, and am grateful for his service."

"I have no doubt Bob will be a terrific leader for all the talented people in the corporate division and will make significant contributions to the development of the law," Sowell said.

Also praising the appointment was Michael Wilder of McDermott Will & Emery. Wellen "is a brilliant guy with a sterling reputation," Wilder said, adding, "He is universally regarded as an incredibly nice guy, too."

News of Wellen's hiring has been well received within the chief counsel corporate division, according to Lawrence Axelrod, special counsel, IRS Office of Associate Chief Counsel (Corporate). "The powers that be could not have made a better choice," he said.

"Bob is a very well-respected, thoughtful tax lawyer. He is well suited in both experience and temperament to lead the corporate division. Everyone I've spoken to in the division could not be happier with his selection," Axelrod said.

Mark Silverman of Steptoe & Johnson LLP said comments praising Wellen are "accurate but not positive enough." Silverman said that he's known Wellen for almost 40 years and that they've been part of the same tax study group during that time. Wellen is "extremely bright, he is very insightful, has incredible judgment, and is a wonderful guy to work with," Silverman said.

According to Silverman, "the IRS is extremely fortunate, more importantly so are practitioners, who got lucky to have someone like Bob take over corporate, [which] means that corporate will continue to be a very important part of practice."

One of the challenges facing Wellen is a lack of personnel, which limits the amount of guidance the chief counsel's office can release, Silverman said. "They need to hire people so they can give proper time, effort, and thought to the process of issuing guidance, responding to exam, and assisting with regulatory projects, rulings, and notices," he said.

"The question is ultimately what can [Wellen] do about that," Silverman said of the workforce problem. "He has to figure out an effective way to work with what he's got," and one of his biggest challenges will be retaining people so there are not further staffing reductions during the hiring freeze, Silverman said.

## **News Analysis: Tax Trouble in the Oil Patch**

Lee A. Sheppard

When is the Fed going to raise interest rates? When will rates go back to normal?

Well, er, um, not anytime soon, according to Fed Vice Chair Stanley Fischer, who spoke at the Economic Club of New York on March 23. Disappointed in the recovery that exists only in the minds of the keepers of phony statistics in Washington, the Federal Open Market Committee is waiting for employment to perk up and inflation to reach 2 percent.

Apparently the Fed is mystified about the failure of labor force participation to pick up and the rise in the number of part-time jobs. Fischer did not use the word "structural," which is official code for not lifting a finger. He nonetheless pronounced the labor market "close to most definitions of full employment."

So sometime between July and September, the Fed will increase rates from zero to 25 basis points to achieve a monetary policy that goes from "ultra-expansionary" to "extremely expansionary." (Yes, Fischer confirmed that those are the official terms.) Well, when? Fischer responded that data would dictate when the Fed would raise rates. He noted that the Fed's historic record shows that it raises and lowers rates in 25-basis-point



increments. But the increase might not occur in nice neat increments because of the inevitable shocks.

The B-word -- bubble -- was never used. Meanwhile, Fischer's colleague James Bullard, head of the St. Louis Federal Reserve Bank, was howling to the *Financial Times* that the Fed's zero interest rate policy was feeding asset price bubbles, with devastating consequences when those bubbles popped (*Financial Times*, Mar. 23, 2015).

What about that giant hedge fund the Fed is running on its balance sheet, which is now the size of 26 percent of U.S. GDP? Fischer explained that the Fed would not sell the garbage on its books, but would not reinvest the proceeds when mortgage-backed securities paid off. So the portfolio would be in runoff, in insurance parlance. He told his skeptical audience that the Fed was market testing some approaches short of selling.

What about negative interest rates? Fischer acknowledged that the smaller central banks that had tried negative rates must know what they're doing, and that minus 75 basis points (Denmark) is not the floor. But he added that negative rates would never be tried in the United States, because of the deleterious effect on widely used money market funds.

What about the strong dollar? Now, the strong dollar is official U.S. policy that is never openly acknowledged. Fischer admitted that the strengthening dollar would hurt emerging market borrowers with dollar-denominated loans and local currency earnings. The recipients of capital inflows objected to quantitative easing -- but they also objected to its end, he noted. Exchange rates sometimes overshoot, he mused, predicting that the strong dollar would not last.

Housing? No U.S. policymaker has bothered to rethink a housing policy that requires people to take on debt and take title to their dwellings. The Fed doesn't want NINJA loans to return, but can't comprehend why jobless young people burdened with student debt aren't buying first houses. And a generation of owners now know that increases in value are not guaranteed by the Constitution. Fischer mused that eventually the young would buy houses.

Thankfully, Fischer did not throw any red meat to inflation harpies, who tend to be out in force at Fed appearances. About the Fed's dual mandate of inflation and employment, he said, "If we were pure inflation targeters, we'd have the exact same problem that we have." That problem is getting inflation up to 2 percent.

When banks lend on oil drilling projects, they lend on the oil production as collateral. Readers can see where this is going. Shale oil projects got bank loans and issued junk bonds on the strength of projections of \$80 oil forever. Those debts are now worth as little as 65 cents on the dollar -- when banks can sell them. The world's largest banks and former investment banks are taking a bath on oil loans (*The Wall Street Journal*, Mar. 18, 2015).

Many loans were made on shale projects, which are uneconomic at current prices, yet have kept going. There are two reasons for this. First, hydraulic fracturing equipment can't just be turned on and off like a faucet. Once it is in place, it has to be kept running, or removed and the whole project abandoned. Second, fracking projects are notoriously short-lived, with 80 percent of their total yield realized in the first two years.

So producers have rationally elected to keep going and store product until the price goes

back up, which, as Fischer acknowledged, it will. Oil traders have noticed that that Bab al-Mandab strait near Yemen is a shipping choke point.

When the bank has lent on depreciating collateral, or finally bites the bullet, there are tax ramifications for the parties. Those tax consequences were the subject of a panel discussion of the Banking and Savings Institutions Committee at the recent American Bar Association Section of Taxation meeting in Houston.

## **Revolvers**

If the oil hasn't been extracted yet, and there are only estimates of how much can be extracted, how can a bank lend on the oil as collateral? Recoverable oil is as much a function of price as it is of technology. "Proven" reserves are minerals that can be commercially extracted. So the base for borrowing includes proven developed producing reserves, proven developed not producing reserves, and proven undeveloped reserves. (The last term refers to known reserves that the drilling missed.)

The lender takes a security interest in a minimum of 80 percent of the borrower's properties. For the oil, the lender must value the site's expected future production at the forward prices in its proprietary price deck -- which has lower prices than commodity markets -- then apply a discount. The borrower hedges the exposure at prices slightly above the deck price. These calculations determine the base for borrowing, which may be redetermined every six months.

In short, the loan is a revolver, under which funds can be borrowed, repaid, and borrowed again. Usually the borrower only pays interest during the term. Revolvers are considered a low-cost form of capital in the range of choices, according to John Bradford of Liskow & Lewis.

When the collateral has been revalued downward so that the borrowing base is overdrawn -- the loan is under water -- then the borrower must repay the excess principal or amortize principal. Another choice is to add collateral, but most of the borrower's assets are already pledged.

So borrowers are initially asking for relief from covenants requiring a certain ratio of debt to EBITDA. Scott Joyce of BNP Paribas said that banks evaluate each borrower individually and may increase the permissible ratio temporarily. Banks reset their price decks quarterly, again at prices lower than market prices. It's all a negotiation.

Readers will recognize a debt modification event or even a deemed reissuance ([reg. section 1.1001-3](#)). Borrowers could have cancellation of indebtedness income if the principal amount is reduced. Fees are required for modifications. Most oil borrowers have revolvers and can expect to see their borrowing base reduced, but maturity of their debts is far in the future. But they could have problems if low oil prices persist into 2016, according to Joyce. So there could be some distress sales on the horizon.

## **Mezzanine Finance**

Sometimes the lender takes an equity kicker with a revolver. Oil people call that deal "mezzanine," even though the term is used differently on Wall Street. The borrower might get a lower interest rate in exchange for equity. A private equity fund may lend this way in

the hope of taking over the borrower in the future. The equity granted may consist of shares of the borrower, options or warrants to purchase shares, or an overriding royalty interest.

A royalty interest can either be a fractional interest in the gross production of the project or a percentage of net profits. Technically, it is carved out of the borrower's working interest, which is a leasehold to which full costs are allocated. A royalty interest does not bear operational costs. In most states, a royalty interest is an interest in real property, the assignment of which has to be recorded as such.

If the lender gets an overriding royalty interest, it reduces the borrowing base of the loan, even though it is a substitute for interest. For tax purposes, the borrowing base and the equity kicker could be considered an investment unit ([section 1273\(c\)\(2\)](#)). The issue price would have to be allocated between the components based on their fair market values.

The difference between the issue price for the borrowing base and its stated redemption price at maturity is original issue discount. Essentially, the entire value of the equity kicker could be OID. Bradford noted that the parties frequently miss this tax issue, and that assignment produces a tax-inefficient result.

The equity component would also have an issue price. If it consists of shares or rights, the borrower is treated under [section 1032](#). The lender would be treated as purchasing the shares, and would be permitted to treat them as a capital asset if it is not a dealer.

Often the borrower is a subsidiary and the shares are parent shares. Practitioners hope that section 1032 covers this situation even though there is no explicit permission for nonrecognition, as there is for triangular reorganizations ([reg. section 1.1032-2](#)). David Garlock of EY wanted to know where the parent shares came from, and whether the right was exercisable against the parent or the subsidiary. For tax purposes, the subsidiary constructively purchases the shares from the parent and then transfers them to the lender, Bradford responded, even though the parent may directly transfer shares to the borrower.

If the equity component is an overriding royalty interest, there would be an assignment that the tax law would treat as a purchase by the lender. The borrower would recognize [section 1231](#) gain or loss based on the portion of its working interest assigned to the lender. Royalties paid under the assignment would just be ordinary income to the lender, which would be entitled to percentage depletion. The lender usually has the right to put the royalty interest back to the borrower, which would produce section 1231 gain or loss.

Joyce predicted that there would be more mezzanine finance in the near future. "It certainly is an interesting time in oil and gas finance," he said. "The capital markets are pretty much shut right now." Bradford noted that mezzanine finance sometimes is used to replace financing in place. The lender may be a distressed debt fund.

## **Production Payments**

A bank is betting on the oil price when it lends, and a bank that takes production payments may be making a more direct bet by accepting a share of the oil or gas that the project produces. A production payment entitles the holder to oil until a specified volume or dollar amount in value has been achieved. A volumetric payment is limited by a quantity of oil. A dollar-denominated production payment is limited by a specific dollar amount and provides

for interest.

Under Texas state law, these esoteric interests in oil are legally considered interests in real property so that special property taxes can be imposed on the owner of a production payment. It is real property if the lender can only look to production for prepayment. But a production payment could be treated as security for a debt if the borrower is absolutely and unconditionally obliged to repay a sum certain.

If the production payment is drafted so that the lender is absolutely entitled to a specific dollar amount plus accrued interest, it can be a security interest, acting like a mortgage. No operational costs are allocated to the holder. Its production payment expires when the agreed volume or amount from the sale of product has been realized. A production payment can also be limited by time.

A holder of a production payment has to have an economic interest in minerals to be entitled to percentage depletion ([section 636](#)). When the narrowly interpreted development and exploration exception applies, percentage depletion effectively allows the borrower to assign a carved-out production payment without gain recognition, according to Jim Reardon of Porter Hedges LLP.

The code differentiates retained production payments from carved-out production payments. When the owner of a mineral interest assigns the interest and keeps back a production payment, it is retained and treated as additional proceeds of the assignment, which is a sale of a working interest.

When the owner of a mineral interest assigns a production payment to another person and keeps the rest of its interest, the production payment is carved out. A carved-out production payment is generally treated as debt under the tax law, hence ineligible for percentage depletion ([section 636\(a\)](#)).

Usually a lender gets a carved-out production payment, the documentation of which looks like an asset sale. But the tax law treats it as debt, Reardon emphasized. The parties use the noncontingent bond method to compute interest on a production payment ([reg. section 1.1275-4](#)). Contingent interest is not eligible for the portfolio interest exemption.

Back in the '90s, Enron issued volumetric production payments, which it treated as debt, to a grantor trust, which syndicated interests. The trust hedged the commodity price risk. The owners of the interests were treated as owning debt of Enron. Because Enron had syndicated volumetric production payments, the investors still had hard assets as collateral.

Well, so what? Enron may not have been recognizing the gain on the sale of the volumetric production payments. The IRS didn't want big oil companies to be able to defer gain on what was effectively a cash sale of a volumetric production payment. So the IRS responded by drafting a safe harbor for debt treatment of production payments based on Texas case law to ensure that debt treatment is limited to cases when the creditor has recourse to the producer (Rev. Proc. 97-55, 1997-2 C.B. 582).

To be treated as debt, a production payment has to be bounded by a specified quantity of minerals or a dollar amount. It must be an economic interest ([reg. section 1.611-1\(b\)](#)). It must be reasonably expected that it will terminate once 90 percent of the expected

reserves are produced. And the present value of the remaining production must be 5 percent or more of the present value of the property (reg. section 1.611-2(e)).

The taxpayer has the burden of proof to show that the production payment has a shorter life than the project. For a production payment to be treated as debt, the grantor has to retain some risk; there must be a shirttail of 5 percent of the estimated reserves, Reardon explained.

Reardon pronounced the criteria formalistic. It's all in the drafting. If a production payment fails the safe harbor, or is pledged for exploration and development, it would be treated as an ownership in the minerals in place, eligible for percentage depletion.

The easiest way to qualify a production payment as debt is to draft it as a dollar-denominated production payment. Financial accounting treats a sale of a dollar-denominated production payment as a loan (ASC 932-470-25-1).


A volumetric production payment can be drafted to qualify as either debt or a real property interest. If it qualified as debt, the holder would not get percentage depletion, but would get a tax-free return of its capital. The holder would only be taxable on the imputed interest portion of the payment. If a volumetric production payment is structured as an ownership interest in the minerals in place, it would continue to pay for the full life of the underlying reserves. The holder would be entitled to claim depletion.



A volumetric production payment can also be real property for the 1980 Foreign Investment in Real Property Tax Act (reg. section 1.897-1(d)). Readers can appreciate that the borrower would prefer a volumetric production payment, under which it owes only oil, because that naturally hedges its price exposure. Financial accounting treats a sale of a volumetric production payment as the sale of a mineral interest (ASC 932-360-55-2). The owner of a volumetric production payment also accepts physical risks unless it contracts out of them.

Joyce noted that banks currently are not wild about accepting the forward bet on oil prices that volumetric production payments represent. Lenders like dollar-denominated production payments better because they are guaranteed to get paid. But the lender is better off in bankruptcy with a volumetric production payment precisely because it is real property. A dollar-denominated production payment requires the lender to get in line with the other creditors.

## **Master Limited Partnerships**

What more is there to say about master limited partnerships that hasn't already been said? The use of the partnership form by oil drillers brought us publicly traded partnerships and, in Wyoming in 1988, limited liability companies.

Much of what oil drilling enterprises do is covered by section 7704. The IRS won't give rulings about qualifying income, so sponsors ask for "will" opinions. Sponsors like these vehicles for acquisitions and refinancing of operating projects and pipelines because they offer a way to get financing without relinquishing control, Reardon and Bradford noted. And public investors are willing to accept lower yields than cynical lenders; the interests trade like bonds. A year ago, the IRS issued disguised sale regulations to restrain the use of bottom-dollar guarantees and leveraged distributions to sponsors (REG-119305-11 ).

Sponsors also like synthetic master limited partnerships, which are corporations, because renewable energy is not eligible for section 7704. These entities can elect to be REITs. The Hunt family got two REIT ruling for \$2 billion worth of electricity and gas transmission assets (which might be LTR 200937006 and LTR 200725015 ). The Hunt ruling was followed by the Windstream REIT ruling in 2014 .

The downside of REITs is that income must be distributed to investors, and cannot be reinvested for growth, as in a regular business corporation. But that restriction is not a handicap for short-lived energy projects. Alternatively, a sponsor could use a C corporation as a financing vehicle because an oil or renewable energy project does not have taxable income in its first years of existence. NRG Yield Inc. is an example.

## Interest in Bitcoin Grows on Wall Street

By [Michael J. Casey](#) and [Paul Vigna](#)

Corporate America is gradually warming to bitcoin.

Amid a slew of deals involving prominent finance and tech companies lie signs that the U.S. business establishment is exploring innovative new enterprise uses for digital currencies. They are making early, tentative bets that the so-called blockchain-ledger technology behind bitcoin might one day transform how banks, businesses and even smart appliances circulate money, assets and sensitive data around the world.

The interest is most evident on Wall Street, where there's a sense that the bank-dominated, centralized pathways through which international finance passes are long overdue for the kind of Internet-driven cost savings that have affected other industries.

"The price of handling bits [of data] has come down by a factor of 10,000 fold over the last generation; it's high time that the costs of payments processing fall by a factor of even two," says former U.S. Treasury Secretary Lawrence H. Summers. "Bitcoin offers the prospect of necessary and important disruption in finance for the benefit of buyers and sellers rather than financiers and middlemen." Most ordinary consumers remain wary of using an unproven, six-year-old digital currency that many associate with illicit drugs, extreme price fluctuations and security risks. But the talk now is that bitcoin's potential lies more as a low-profile, back-office phenomenon than as mainstream medium of exchange for buying groceries.

The idea is that blockchain ledgers, which are verified, updated and maintained by a decentralized network of independently owned computers, for the first time let people and businesses trust each other in peer-to-peer online exchanges of assets, money and information. In cutting out intermediating middlemen, the theory goes, this technology could slash costs, cut settlement times and reduce default risks.

"It's an opportunity for Wall Street to streamline some operations that are pretty antiquated," says [Duncan Niederauer](#), the former chief executive of the NYSE Euronext, who this week became an adviser to TeraExchange, the first Commodities Futures Trading Commission-regulated bitcoin derivatives platform.

There are still major hurdles to overcome. In addition to the security, criminality and price volatility concerns, it's not clear that the bitcoin network can be sufficiently scaled up. Total daily bitcoin transactions currently average around \$50 million, a tiny sliver of the more than \$5 trillion traded in world foreign exchange markets.

However, with regulators in the U.S., U.K. and elsewhere devising digital-currency rules aimed at both protecting users and encouraging innovation, companies are exploring possibilities. It marks a big change from a year ago, when bitcoin was mostly viewed as a fringe idea for computer geeks and libertarian opponents of government-issued currencies.

In January, the New York Stock Exchange, USAA Bank, Spanish banking conglomerate [Banco Bilbao Vizcaya Argentaria](#) SA and former [Citigroup](#) Inc. chief executive [Vikram Pandit](#) took stakes in bitcoin consumer services and exchange provider Coinbase. USAA and Citigroup's venture capital arm, Citi Ventures, are also doing mentoring work with startups at an accelerator program run by San Francisco's Plug and Play Tech Center.

This week, [Nasdaq OMX Group](#) inked a deal providing order-matching technology to New York startup Noble Markets, which is building a high-tech marketplace in which hedge funds and other institutions can trade digital currency-based assets. Nasdaq's executive vice president for market technology, Lars Ottersgård, said his firm is actively exploring ways in which blockchains "could be leveraged to reduce risk in markets."

Meanwhile, leading figures from Wall Street and Washington are, like Mr. Niederauer, taking job offers in the digital-currency sector. Long-time J.P. Morgan Chase & Co. executive Blythe Masters, who is credited with pioneering the global credit derivatives industry, this month took the helm of blockchain trade settlement firm Digital Assets Holdings. In October, former Securities and Exchange Commissioner Arthur Levitt became an adviser to payment processor Bitpay and in January, digital currency-based payments platform Ripple Labs named former National Economic Council director Gene Sperling as a director. BitFury, which provides specialized computers for the "mining" process of confirming bitcoin transactions, has tapped Jason Weinstein, a former head of the Department of Justice's criminal division, as an adviser.

Various new projects intend to offer a more robust, regulated and Wall Street-friendly trading environment for bitcoin, creating opportunities for investors who were otherwise unable or unwilling to participate in the volatile, hacking-prone web sites that have handled bitcoin trading until now. New York entrepreneur Barry Silbert's Digital Currency Group this week opened public trading in its Bitcoin Investment Trust. That fund might soon face competition if twins Tyler and Cameron Winklevoss earn SEC approval for a full-blown exchange trade fund.

With these new trading instruments, the founding firms are hoping to create opportunities for a wider pool of investors – including those holding the strategic view that new non-currency uses for the blockchain will generate significant demand for the underlying currency. Even if those uses don't necessarily involve payments in bitcoin, it is expected that the digital currency will still be needed as the foundation for transactions and that should translate into a higher price for bitcoin.

Widening the investment pool could also help quell bitcoin's notorious price volatility — which could make it more appealing as a currency too. In 2013, the digital currency's price soared from around \$13 in January to a late-November peak of \$1,150, only to drop 85% over the following 13 months.

Bitcoin's price has since stabilized around \$250, according to an index produced by news service Coindesk.

Big-name tech companies are also testing the waters. [International Business Machines Corp.](#) has a project to research how blockchain technology could allow network-connected gadgets exchange data, money and contracts within a future "Internet of Things." And chipmaker Qualcomm Inc. has joined a slew of top venture capitalists putting a combined \$116 million into a startup called 21 that's developing blockchain-enabled products.

There are still plenty of skeptics, however. Boston University professor Mark T. Williams, a vocal bitcoin critic, says regulation needs to be tougher to protect consumers. "What complicates things is this is a nationless currency," he said. "What regulatory bodies are supposed to be responsible for it?"

At the other extreme, libertarian-minded early adopters warn that regulation and Wall Street co-optation undermine the empowering, decentralizing elements that first drew them to bitcoin. Outspoken anarchist Cody Wilson, who helped design a technology making it harder to trace bitcoin transactions, bemoans that new bitcoin entrepreneurs "desire authority." They "give lip service to libertarian ideals but actually discard anything that appears to be revolutionary," he said.

Many also wonder whether banks and other legacy institutions might one day quash the technology if it threatens revenues from businesses such as credit cards.

Still, the cost savings and potential efficiencies could prove too enticing for businesses to resist.

"Not only is it not a threat, it's potentially an opportunity," says Mr. Niederauer. "If the train's leaving the station, you'd rather be on it and be the conductor, than a bystander on the platform."

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**Subject:** BNA bitcoin article and TNT 807 article  
**Date:** Monday, August 01, 2016 10:23:18 AM  
**Attachments:** [152tn0739.pdf](#)

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## Recent Events May Prompt More Guidance on Virtual Currency

By [Allyson Versprille](#)

July 29 — Recent developments involving virtual currencies, namely bitcoin, may be an impetus for further IRS guidance to address lingering questions, two tax practitioners told Bloomberg BNA.

Questions surrounding the use of virtual currencies came to the forefront on July 25 when a judge in Miami ruled that bitcoin doesn't qualify as "money" and thus dropped charges against a man accused of illegally selling more than \$1,500 in bitcoins to undercover detectives who said they were using them to buy stolen credit card numbers.

Generally, the ruling seems to agree with the Internal Revenue Service's classification of virtual currency. In April 2014, the agency issued Notice 2014-21, which said bitcoin and similar currency would be treated as "property" for federal tax purposes ([58 DTR G-1, 3/26/14](#)).

Brian Bieber, a shareholder with GrayRobinson PA in Miami, said that while the case doesn't have immediate tax implications, it could prompt the IRS to consider issuing guidance to clear up some of the questions that remain for virtual currencies.

"The bitcoin world and value of currency has been murky since its inception," he said July 27. "The effect of the ruling will really be the setting off of a firestorm regarding bitcoin," he said.

Criminal courts, as well as the civil enforcement division of the IRS, will now be forced to "qualify and quantify" exactly what the virtual currency represents, he said.

"It's inevitable that the IRS will further clarify its treatment of bitcoin. From a criminal defense standpoint, we are hoping for crystal clear clarification," he said.

### Not So Fast

Jason Tyra, a Texas-based certified public accountant who advises clients on virtual currency matters, said he isn't as convinced that the court's ruling in Florida will have a significant impact.

"I don't think the ruling is going to end up being that big of a deal," he said July 27.

"For one thing, it was in state court, not federal court," he said.

Furthermore, Miami-Dade Circuit Judge Teresa Mary Pooler's ruling seemed to revolve more around the belief that Michell Espinoza had been set up by the undercover agents, and less about "nut-and-bolts" money laundering, he said (*Florida v. Espinoza*, Fla. Cir. Ct., F14-2923, 7/25/16).

"The court's order basically said that bitcoin's not money, and where there is no money there can be no money laundering. And that clearly can't be the standard, because basically what you're saying is that any other possible scheme that a drug cartel or terrorist organization could come up with can't be considered money laundering because it doesn't involve cash," Tyra said.



Tyra pointed to a similar case in Texas where Trendon Shavers, founder of Bitcoin Savings and Trust, was found guilty of securities fraud for using bitcoin in a Ponzi scheme. Shavers was sentenced to 18 months in prison on July 21. His defense had attempted to use an argument similar to that used in *Espinoza*, claiming that because virtual currencies aren't securities, Shavers didn't fall under the jurisdiction of the Securities and Exchange Commission, Tyra said. However, that defense didn't work in this case (*United States v. Shavers*, S.D.N.Y., No. 1:15-cr-00157, *sentenced* 7/21/16).

#### AICPA Letter

Tyra said that a June 10 letter from the American Institute of CPAs may be more likely to prompt the IRS to consider revisiting its guidance on virtual currencies (114 DTR G-1, 6/14/16).

"This AICPA comment letter is going to be one to watch because the AICPA tax section has won some pretty big battles recently," he said.

Some of the questions raised within the letter are purely informational, such as whether bitcoins can be held in retirement accounts. "Not a lot of people are trying to do that, so it's probably not that big of a deal," he said.

"But some of them have the potential to have a lot of impact, and if AICPA advocates on behalf of simplicity in the tax code for virtual currencies—and it seems they are taking that position—I think it's not unlikely that the IRS will go along with it," Tyra said.

One issue in the letter deals with whether virtual currencies qualify for the \$200 de minimis exception that currently applies to foreign currency. The group also asked the IRS if there are circumstances under which virtual currency can be treated like money even though the agency has classified it as property.

#### Dwindling Resources

"One of the things that the IRS is kind of weak on lately, because of money, is technical expertise," Tyra said. "So on virtual currencies they're looking to outside experts to help shape policy."

Tyra said the AICPA was about two years too late with its letter, but said he still believes the IRS will adopt some of the institute's recommendations.

Tyra said he sticks to a previous assertion that the IRS got the property classification "right," but said he would like the IRS to clarify if its rules have exceptions (125 DTR G-2, 6/30/15).

For example, asset types currently are prohibited by exception from inclusion in IRAs and 401(k)s, he said. "What I mean by that is the IRS doesn't provide a list of stuff that is OK, they provide a list of stuff that's not OK," he said, adding that virtual currencies aren't on that list.

"I would consider it very bad policy on the part of the IRS to wait until a person who had included virtual currency in their IRA was audited to make the policy decision that it was not OK to that person's detriment—they'll have to undo it; there will probably be a fine; they'll owe extra taxes," he said.

"That is not the time to make policy," Tyra added. "The time to make policy is before stuff like that happens. Otherwise taxpayers are put in a position where they can't do anything because they're afraid the IRS is going to get offended and come down on them."

Therefore, if the IRS plans to add exceptions to its rules, it should make them known sooner rather than later, Tyra said.

## Lack of Guidance

Bieber said that without further guidance from the IRS, bad actors will be able to take advantage of holes in the rules.

"The IRS really needs to provide further clarification on the buying, selling and exchange of bitcoin because with bitcoin's great fluctuation, savvy individuals can manipulate their tax liabilities very easily and avoid criminal prosecution if they know what they're doing," he said. "Inaction on the IRS's part is enabling those individuals to take advantage of existing loopholes in the system."

Tyra said he isn't as convinced that there is an abundance of loopholes, because the property classification handles most of those issues, but there could be some weaknesses in money laundering situations, as evidenced by the Espinoza case.

"I had an IRS Criminal Investigation Division agent tell me one time that he never heard of a terrorism or a drug case that did not have a tax angle by way of money laundering," Tyra said.

And "the money laundering rules may be a loophole if we continue down this path that has already been set for us by this Florida judge," even though the precedent isn't binding in federal court, he said.

If other courts follow suit, individuals could potentially set up money-laundering networks with virtual currencies that they might not have been able to in the past, Tyra said. "That's probably something that the IRS through FinCEN is going to address," he said. FinCEN is the Financial Crimes Enforcement Network, a bureau of the Treasury Department.

**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Balacek Victoria](#); [Erwin Mark E](#); [Welsh Donna J](#)  
**Subject:** BNA on SCINs, WSJ on bitcoin fund, and TNT article on method changes  
**Date:** Tuesday, July 07, 2015 7:31:28 AM  
**Attachments:** [conjura method change article.pdf](#)

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## IRS Caves on Billionaire's Estate Taxes, Agrees to Lower Widow's Gift Tax Liability

July 6 — The IRS stipulated to estate and generation-skipping taxes totaling about \$321 million instead of the \$2.8 billion it had sought from the estate of former Detroit Pistons' owner Bill Davidson (*Estate of Davidson v. Commissioner*, T.C., No. 13748-13, *stipulated decision*, 7/6/15).

The Internal Revenue Service also stipulated to \$3.5 million of the \$10 million in gift taxes that it had claimed were owed by Bill's widow, Karen (*Davidson v. Commissioner*, T.C., No. 17166-13, *stipulated decision*, 7/2/15).

U.S. Tax Court Judge David Gustafson entered the stipulated decisions July 6 in the estate's case and July 2 in Karen's case.

### Life Expectancy Debate

The IRS based its \$1.9 billion estate tax deficiency and \$900 million gift and generation-skipping tax deficiency on the assertion that Bill made transfers to trusts for his grandchildren of self-cancelling installment notes (SCINs) in reliance on an unrealistic life expectancy (*168 DTR K-1*, 8/29/13).

The estate's petition said the IRS erred by disregarding tax code Section 7520 in refusing to treat the SCINs as bona fide debt. In its answer, the IRS said the estate had the burden to prove the SCINs were bona fide consideration.

The estate's petition said the five-year term of the SCINs was reasonable based on the findings of both the estate's and the IRS's medical consultants.

According to the estate's petition, all four consultants retained by the parties said Bill had a greater than 50 percent probability of living at least one year. Bill transferred the SCINs in January 2009 and died in March 2009.

### Gift Checks

Karen and the estate filed petitions with the Tax Court in the summer of 2013 making conflicting claims regarding the nature of payments made to several individuals from an account in Karen's name during the three years immediately preceding Bill's death in 2009.

Karen argued in her petition that she wrote checks at Bill's direction from a "household account" that he had set up in her name with his funds. Karen said she functioned as an agent or paymaster for the gifts made to persons including Karen's daughter from a prior marriage, Mary Aaron, and Mary's husband, Jonathon Aaron (*161 DTR K-2*, 8/20/13).

Skadden, Arps, Slate, Meagher & Flom LLP represented the Davidson Estate. Varnum LLP represented Karen Davidson. Richard J. Hassebrock was lead counsel for the commissioner in both cases.

## A Bitcoin Fund Is Born, With Teething Pains

An ETF-type investment, full of risks, is struggling for acceptance

By Rob Curran  
Updated July 6, 2015 11:06 p.m. ET

If you have an online brokerage account, you can now buy shares in a fund that aims to track the price of the digital currency called bitcoin. Just don't expect a smooth ride.

Bitcoin is a highly speculative investment—the kind most financial advisers say investors should only buy into with money they can afford to lose. But some analysts think the new fund could bring the digital currency a step closer to broader acceptance by investors. For that to happen, the fund will have to overcome some early difficulties.

Bitcoin Investment Trust **GBTC 0.49 %** started trading on the OTCQX market on May 4 under the ticker symbol GBTC. It isn't technically an exchange-traded fund, but it's designed to work like one. (The Securities and Exchange Commission is reviewing an application for what would be the first official bitcoin ETF, the Winklevoss Bitcoin Trust.)

Bitcoin Investment Trust is small, with a net asset value of only \$35.6 million at the end of June and only 1.4 million shares outstanding. Its tracking of bitcoin's price has been inconsistent, and there is a wide spread between the share price and the value of the underlying assets. Oh, and by the end of last month the share price had fallen 28% from its \$42 close on the first day of trading, to \$30.12.

Sparking interest?

Still, some analysts think the fund could prompt some speculative interest in bitcoin, like the launch of gold ETFs did in precious metals a decade ago.

Gil Luria, an analyst with brokerage firm Wedbush Securities who has followed the bitcoin market since its infancy, sees Bitcoin Investment Trust as part of bitcoin's move toward the mainstream of finance. Other recent signs of acceptance on Wall Street include the decision of the New York State Department of Financial Services to regulate itBit Trust Co., a small bitcoin exchange, and research from Goldman Sachs Group Inc. **GS -0.55 %** claiming a place for bitcoin in "the future of finance."

"The OTCQX listing is also a very big step forward," says Mr. Luria. "It has made at least a proxy ownership stake in bitcoin available to practically every institutional and retail investor." Anyone can buy bitcoin directly, but it involves headaches including the need for specialized software for secure transactions.

When the SPDR Gold Shares ETF launched in November 2004, gold futures were trading at about \$400 an ounce. The popularity of the fund was part of a gold craze that saw prices quintuple over the next seven years. "Investors historically have chosen to offload the friction of buying and securing gold directly for a reasonable fee," says Cameron Winklevoss, one of the founders of Winklevoss Bitcoin Trust. "We believe some investors will behave the same with regards to bitcoin and a bitcoin [exchange-traded product]."

Bitcoin is even more volatile than gold in its speculative heyday, and even trickier to buy and sell directly. And the bitcoin market is far smaller and younger than the gold market was in 2004. But there are reasons to believe bitcoin usage could increase. In a recent Goldman Sachs survey of 752 millennials, 44% said they have used, do use or will use bitcoin. And well over 100,000 merchants world-wide, from individuals to corporations, accept bitcoin for at least some payments, the firm says.

Share shortage

In addition to investors' attitudes about the digital currency, Bitcoin Investment Trust is wrestling with some practical issues. For one, the fund's shares trade at a sizable premium to the underlying assets—19% on July 1. That's because of the fund's origins as a private trust.

Investors in the private trust could sell their shares on the public market after a 12-month lockup.

Those sales began May 4, but shares have only become available gradually as the private investors liquidate their holdings. The shortage of shares has boosted their market value.

The bitcoin fund has high fees by ETF standards, at 2%.

But Mr. Luria expects nearly all of the original trust investors to sell their shares publicly by September, creating what he calls a “critical mass” of shares on the market—or enough to bring the price of the fund’s shares more into line with prices on the bitcoin market.

The fund also has high fees by ETF standards, at 2%. And it may soon have competition from the proposed Winklevoss fund. Already, Nasdaq has launched an exchange-traded note that tracks the price of bitcoin on its Stockholm exchange.

However investors come to view the fund, some veteran money managers see it as the latest in a long line of tenuous and risky investment products.

“I think a bitcoin ETF says as much about the popularity of ETFs as it does about the popularity of bitcoin,” says Eric Marshall, a portfolio manager for mutual-fund firm Hodges Capital Management in Dallas. “Now there’s an ETF for everything.”

**From:** [Fahey Douglas A](#)  
**To:** [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Subject:** BREAKING: Rep. Stockman To Introduce First Bitcoin Bill - Forbes  
**Date:** Wednesday, April 09, 2014 9:42:24 AM

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<http://www.forbes.com/sites/perianneboring/2014/04/08/breaking-rep-stockman-to-introduce-first-bitcoin-bill/>

**From:** [Aqui Keith A](#)  
**To:** [noclcc2@irsounsel.treas.gov](mailto:noclcc2@irsounsel.treas.gov)  
**Subject:** CCAC FORM: Your Question  
**Date:** Wednesday, February 25, 2015 1:53:00 PM  
**Attachments:** [Your Question.msg](#)

---

**From:** Berman Samuel  
**To:** Edelman Edward M; Utzke David J  
**Cc:** Welsh Donna J  
**Subject:** CFTC Declares Bitcoin a Commodity  
**Date:** Friday, September 18, 2015 10:59:12 AM

---

Eddie and David,

This is more bitcoin news. <http://www.bloomberg.com/news/articles/2015-09-17/bitcoin-is-officially-a-commodity-according-to-u-s-regulator>

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341



**From:** [Carter Kareem A](#)  
**To:** [Hall Charles A](#); [Cottrell Mark E](#)  
**Cc:** [Fahey Douglas A](#); [Aqui Keith A](#); [Welsh Donna J](#); [Lunger Richard - CT](#); [Needle Martin E - CT](#); [Tafur John R](#)  
**Subject:** Coinbase meeting  
**Date:** Thursday, April 03, 2014 6:42:18 PM  
**Attachments:** [Coinbase Communications.docx](#)

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Charles and Mark

Global Financial Crimes Director, John Tafur and I spoke with the following members of Coinbase (Martine Niejadik, Chief Computing Officer; Fred Ehrsam, Co-Founder; and Juan Suarez, Legal Counsel) earlier today.

Coinbase provided some general concerns about the recent guidance IRS released in March and is seeking clarification on certain issues. The attached document generally describes those concerns.

Furthermore, Coinbase will be in Washington, D.C. on Tuesday, April 8, 2014 to attend previously scheduled meetings but would like to stop by IRS to discuss some of the issues listed on the attachment. We have tentatively agreed to meet with Coinbase on Tuesday at 1:00 p.m. here at IRS pending your availability. **I would like to confirm or cancel this meeting by close of business tomorrow April 4, 2014.**

Again, this is a great opportunity to gather knowledge and insight from what appears to be one of the more reputable bitcoin entities in the industry. If you have any questions please feel free to contact me on the cell number listed below.

Kind Regards,

Kareem Carter  
Senior Analyst, Global Financial Crimes  
IRS Criminal Investigation  
1111 Constitution Ave NW Rm 2516  
Washington, DC 20224  
202-604-7126 cell

**From:** [Dubert Alexa T](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Cc:** [Blanchard William E](#); [Rogers John W III](#)  
**Subject:** Comments on the Bitcoin Notice  
**Date:** Friday, February 21, 2014 9:15:08 AM  
**Attachments:** [Green Circulation - Bitcoin Notice 2-14-14 - FIP Comments submitted on 2-21-2014.docx](#)

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Donna & Keith

Attached are FIP's comments on the green circulation of the bitcoin notice.

Alexa

**From:** [Shepherd Neil D](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Richards John B](#); [Burns Gregory](#); [Shepherd Neil D](#)  
**Subject:** Committee on Homeland Security and Governmental Affairs  
**Date:** Thursday, August 15, 2013 12:33:27 PM  
**Attachments:** [Virtual Currency Letter.pdf](#)

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Greetings, Keith. Here's a link to an article discussing the letter from the Committee on Homeland Security and Governmental Affairs relating to virtual currencies. The letter to Secretary Napolitano is attached below. Evidently, the Committee sent something similar to this to the Department of the Treasury.

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**From:** Shepherd Neil D  
**Sent:** Wednesday, August 14, 2013 12:59 PM  
**To:** Welsh Donna J  
**Cc:** Cook Janine; Camillo Lynne A; Carlino Paul J; Munroe David; Shepherd Neil D  
**Subject:** Senate Homeland Security and Government Affairs Committee

Greetings, Donna. Evidently, the Senate Homeland Security and Government Affairs Committee on Monday sent letters to several agencies [including the Department of the Treasury] requesting that "they disclose their virtual currency policies, how they developed them, how agencies are coordinating and finally what they plan to do going forward." See the attached link. I couldn't find the letter on the internet, but whoever is coordinating our efforts with main Treasury should know about it--if they don't already. We don't want to be freelancing on this thing.

Many thanks.

<http://www.politico.com/story/2013/08/congress-starts-looking-into-bitcoin-95464.html>

**From:** [Cook Janine](#)  
**To:** [Tackney Stephen B](#); [Richards John B](#); [Shepherd Neil D](#); [Welsh Donna J](#); [Warren Brinton T](#)  
**Cc:** [Aqui Keith A](#)  
**Subject:** discuss bitcoin FAQs

---

can we move up a bit?

**From:** [Rogel Max](#)  
**To:** [Aqui Keith A](#); [Shepherd Neil D](#); [Griffin Adrienne E](#); [Stahl Raymond J](#)  
**Subject:** Does Notice 2014-21 apply to the type of reporting required under Form 1099-B, Proceeds From Broker and Barter Exchange Transactions?  
**Date:** Wednesday, November 26, 2014 12:31:29 PM

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Counsel.

Does Notice 2014-21 apply to the type of reporting required under Form 1099-B, Proceeds From Broker and Barter Exchange Transactions?

Max Rogel  
Tax Law Specialist-Reviewer  
SE:W:CAR:MP:T:I:S  
ID # 1001351736

**From:** [Welsh Donna J](#)  
**To:** [Warren Brinton T](#); [Fahey Douglas A](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Draft FAQs on Virtual Currency Transactions  
**Date:** Wednesday, September 11, 2013 3:10:06 PM  
**Attachments:** [FAQ091113Br4.docx](#)

---

Hi Brinton, Attached is the first draft of FAQs based on input from ITA, TEGE, FIP, Intl, and PA. I would like to send this draft to the Associate Offices early next week (9/16) and ask for their comments by 9/30 when Doug gets back. Counsel has committed to finishing its draft FAQs by 10/15/13.

Thanks.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Emailing: 2471e486-82d3-11e3-8099-9181471f7aaf\_story.htm  
**Date:** Friday, January 24, 2014 9:44:21 AM  
**Attachments:** [2471e486-82d3-11e3-8099-9181471f7aaf\\_story.htm](#)

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From this morning's Washington Post.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Emailing: Bitcoin reaches a new milestone fraud - Lexology.htm  
**Date:** Friday, December 27, 2013 9:53:58 AM  
**Attachments:** [Bitcoin reaches a new milestone fraud - Lexology.htm](#)

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FYI



**From:** [Fahey Douglas A](#)  
**To:** [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Subject:** Emailing: bitcoin-satoshi-nakamoto.htm  
**Date:** Thursday, March 06, 2014 3:03:56 PM  
**Attachments:** [bitcoin-satoshi-nakamoto.htm](#)

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**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Emailing: detail.htm  
**Date:** Wednesday, January 29, 2014 10:33:23 AM  
**Attachments:** [detail.htm](#)

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More on what else?

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Emailing: detail.htm  
**Date:** Friday, January 10, 2014 3:02:50 PM  
**Attachments:** [detail.htm](#)

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FYI. A good summary of 2013 developments.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Emailing: detail.htm  
**Date:** Thursday, January 02, 2014 10:22:41 AM  
**Attachments:** [detail.htm](#)

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FYI

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Emailing: detail.htm  
**Date:** Tuesday, March 04, 2014 11:30:22 AM  
**Attachments:** [detail.htm](#)

---

FYI. Couple of interesting points here: Bitcoins don't have the potential identity theft risks that credit cards do, and bitcoins' anonymity is just like the dollar bill, so [REDACTED]

[REDACTED]

(b)(5)  
(b)(5)

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Emailing: detail.htm  
**Date:** Tuesday, March 04, 2014 11:15:11 AM  
**Attachments:** [detail.htm](#)

---

This is a pretty good overview of bitcoins in general, and discusses how Canada taxes them.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Emailing: five-lessons-from-bitcoin.htm  
**Date:** Thursday, January 09, 2014 4:00:00 PM  
**Attachments:** [five-lessons-from-bitcoin.htm](#)

---

I think this is the first obituary for bitcoin that I've seen.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** Emailing: Follow the yellow bit road JP Morgan pursues bitcoin-like patent - Lexology.htm  
**Date:** Tuesday, January 07, 2014 8:28:24 AM  
**Attachments:** [Follow the yellow bit road JP Morgan pursues bitcoin-like patent - Lexology.htm](#)

---

FYI



**From:** [Fahey Douglas A](#)  
**To:** [Keyso Jr. Andrew J](#); [Welsh Donna J](#); [Aqui Keith A](#); [Rochelle.Hodes@treasury.gov](#); [Ronk Alice L](#); [Larsen Eric R](#); [Berman Samuel](#); [Sinno Suzanne](#)  
**Subject:** Emailing: Inside the Bitcoin advocates' closed-door meeting with federal regulators The Switch.htm  
**Date:** Tuesday, August 27, 2013 10:01:19 AM  
**Attachments:** [Inside the Bitcoin advocates' closed-door meeting with federal regulators The Switch.htm](#)

---

FYI. Article about yesterday's meeting between Bitcoin Foundation and government agencies.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Cc:** [Stahl Raymond J](#); [Erwin Mark E](#); [Jensen Steven D](#)  
**Subject:** Emailing: lakota-nation-strives-for-independence-with-digital-currency-mazacoin.htm  
**Date:** Friday, March 07, 2014 3:28:36 PM  
**Attachments:** [lakota-nation-strives-for-independence-with-digital-currency-mazacoin.htm](#)

---

FYI. An interesting 988 issue?

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** Emailing: Should You Invest in Bitcoin - WSJ.com.htm  
**Date:** Monday, November 25, 2013 3:09:40 PM  
**Attachments:** [Should You Invest in Bitcoin - WSJ.com.htm](#)

---

FYI. WSJ article discussing the pros and cons of buying bitcoin as an investment.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Emailing: Silk Road, Shut Down in Fall, Had Digital Outpost in Pennsylvania - NYTimes.com.htm  
**Date:** Wednesday, March 05, 2014 11:50:09 AM  
**Attachments:** [Silk Road, Shut Down in Fall, Had Digital Outpost in Pennsylvania - NYTimes.com.htm](#)

---

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Emailing: What you should know about digital currency.htm  
**Date:** Monday, December 09, 2013 9:17:38 AM  
**Attachments:** [What you should know about digital currency.htm](#)

---

Here's Canada's version of our FAQs.

(b)(5)

(b)(5)

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Agui Keith A](#)  
**Subject:** Emailing: Zerocoin.htm  
**Date:** Wednesday, August 21, 2013 11:10:04 AM  
**Attachments:** [Zerocoin.htm](#)

---

Some good folks at Johns Hopkins have developed a next-generation bitcoin that provides for even more anonymity.

## Dwyer Sean M

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**From:** Welsh Donna J  
**Sent:** Wednesday, October 23, 2013 11:05 AM  
**To:** Dwyer Sean M  
**Cc:** Aqui Keith A  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Thank you!

---

**From:** Dwyer Sean M  
**Sent:** Wednesday, October 23, 2013 10:40 AM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

We have no comments.

---

**From:** Kane Christopher F  
**Sent:** Wednesday, October 23, 2013 10:20 AM  
**To:** Dwyer Sean M  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

I have no comments

---

**From:** Dwyer Sean M  
**Sent:** Tuesday, October 22, 2013 4:36 PM  
**To:** Kane Christopher F  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

Just noticed you weren't on the distribution list.

I don't have any comments. They made the change we suggested last time.

---

**From:** Welsh Donna J  
**Sent:** Friday, October 18, 2013 1:17 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J; Keyso Jr. Andrew J; Cook Janine; Welsh Donna J  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

Hi Everyone, I will spare you the welcome back speech. But I would appreciate your final edits by COB 10/23/13.

Thanks!  
djw

---

**From:** Welsh Donna J  
**Sent:** Friday, September 27, 2013 4:05 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J

**Cc:** Cook Janine; Keyso Jr. Andrew J

**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi everyone, Here's what I hope is the final version. This revised draft includes an intro and a few misc edits. We kept TEGE's version of the Q&A on mining b/c it is helpful info on self-employment. Please read afresh b/c there are minor edits here and there. I would appreciate your final comments/edit by COB Tuesday so that we can send forward for briefing.

Thanks!

Donna



**Dwyer Sean M**

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**From:** Dwyer Sean M  
**Sent:** Monday, September 16, 2013 10:52 AM  
**To:** Kane Christopher F  
**Subject:** FW: Virtual Currency Draft FAQs

FYI,

This came in Thursday afternoon, PUBWE-131431-13 Guidance on transactions in virtual currencies

It was ASAP I thought we'd assign it to you and I.

Our question was whether the bitcoins (Group 2 having already determined them to be property but not currency and to create taxable income and basis when received) that appreciate or decline in value result in capital gain or loss.

(b)(5)

---

**From:** Berman Samuel  
**Sent:** Monday, September 16, 2013 10:44 AM  
**To:** Welsh Donna J  
**Cc:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J  
**Subject:** FW: Virtual Currency Draft FAQs

Donna,

Thanks. I will be out of the office this Thursday and Friday, and on leave for all of the following week.

(b)(5)

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Welsh Donna J

**Sent:** Friday, September 13, 2013 12:50 PM

**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J

**Cc:** Keyso Jr. Andrew J

**Subject:** RE: Virtual Currency Draft FAQs



Bit

CoinFAQ0913IT...

Hi Everyone, Here is the first draft FAQ based on great assistances from Intl, PA, TEGE, and FIP. I would like to meet the during the week of 9/23 to discuss comments/revisions. I would like to have a finished draft by 9/27 (plus or minus) to provide to Alice Ronk.

Thank you all for your hard work.

**Dwyer Sean M**

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**From:** Harvin Betty A  
**Sent:** Wednesday, May 14, 2014 8:23 AM  
**To:** Dwyer Sean M  
**Subject:** FW: PUBWE-131431-13 GUIDANCE ON TRANSACTIONS INVOLVING VIRTUAL

Is this case ready to be closed?

---

**From:** Harvin Betty A  
**Sent:** Wednesday, May 14, 2014 8:22 AM  
**To:** Kane Christopher F; Casey Robert M  
**Subject:** FW: PUBWE-131431-13 GUIDANCE ON TRANSACTIONS INVOLVING VIRTUAL

Are you ready to close this case?

---

**From:** Ruff-Barnes Cherita K  
**Sent:** Wednesday, May 14, 2014 7:54 AM  
**To:** Harvin Betty A  
**Subject:** PUBWE-131431-13 GUIDANCE ON TRANSACTIONS INVOLVING VIRTUAL

Dear Betty,

Can you please close WLI #8 on this case? The case was never assigned to anyone. Thanks a bunch!

*Cherita Ruff-Barnes*  
*Income Tax & Accounting*  
*(202) 317-4733 (direct)*  
*(202) 317-4734 (fax)*

## Dwyer Sean M

---

**From:** Dwyer Sean M  
**Sent:** Wednesday, January 29, 2014 1:45 PM  
**To:** Kane Christopher F  
**Subject:** FW: Virtual Currency Draft FAQs --Treasury's version  
**Attachments:** Bitcoin Notice 1-29-14.docx

FYI

---

**From:** Welsh Donna J  
**Sent:** Wednesday, January 29, 2014 12:44 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B  
**Cc:** Cook Janine; Keyso Jr. Andrew J; Montemurro Michael J; Welsh Donna J  
**Subject:** Virtual Currency Draft FAQs --Treasury's version

Hi everyone, Here are Treasury's changes to our FAQs in a clean-read version. Because of the high profile nature of the questions and the need for more formal guidance, Treasury has converted our FAQs into a Notice to be published in the IRB. Erik Corwin and Treasury would like to get this out quickly because nearly every day there is news article discussing the unanswered issues surrounding virtual currency.

I am going to schedule a meeting next Wednesday, 2/5/14, for the Associate Offices to discuss Treasury's comments. Ideally, I would like to provide Treasury with our combined comments on Friday, 2/7/14. We need to add contact information for TEGE, PA, and FIP, so please let me know who your office's contact is and their Branch's general phone number.

Thanks to all for your hard work on this novel project.

Donna

**Dwyer Sean M**

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**From:** Fahey Douglas A  
**Sent:** Monday, February 24, 2014 3:55 PM  
**To:** Dwyer Sean M  
**Subject:** Virtual currency notice

**Importance:** High

Hi, Sean. You reviewed an earlier version of our proposed draft on virtual currency, which contained the first version of Q&A-6 below. We are thinking of going with the second version below, after receiving greensheet comments, and wanted to see if you thought the second version was okay.

How does it look to you? We're on a fast track, so I would appreciate getting your reaction by COB today. Thanks.

(b)(5)

Doug Fahey  
NEW PHONE 202-317-4619

**From:** [Moriarty John P](#)  
**To:** [Keyso Jr. Andrew J](#)  
**Subject:** EU Advocate General Defines Bitcoin as VAT-Exempt Currency  
**Date:** Monday, July 20, 2015 9:23:00 AM

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In case you missed it.

[http://news.bna.com/dtln/DTLNWB/split\\_display.adp?  
fedfid=72985666&vname=dtrnot&jd=a0h0b4b1a9&split=0](http://news.bna.com/dtln/DTLNWB/split_display.adp?fedfid=72985666&vname=dtrnot&jd=a0h0b4b1a9&split=0)

**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#)  
**Subject:** FAQ952013.docx  
**Date:** Thursday, September 05, 2013 3:31:00 PM  
**Attachments:** [FAQ952013.docx](#)

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# Department of the Treasury Financial Crimes Enforcement Network

## Guidance

**FIN-2013-G001**

**Issued: March 18, 2013**

**Subject: Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies**

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The Financial Crimes Enforcement Network ("FinCEN") is issuing this interpretive guidance to clarify the applicability of the regulations implementing the Bank Secrecy Act ("BSA") to persons creating, obtaining, distributing, exchanging, accepting, or transmitting virtual currencies.<sup>1</sup> Such persons are referred to in this guidance as "users," "administrators," and "exchangers," all as defined below.<sup>2</sup> A user of virtual currency is *not* an MSB under FinCEN's regulations and therefore is not subject to MSB registration, reporting, and recordkeeping regulations. However, an administrator or exchanger *is* an MSB under FinCEN's regulations, specifically, a money transmitter, unless a limitation to or exemption from the definition applies to the person. An administrator or exchanger is not a provider or seller of prepaid access, or a dealer in foreign exchange, under FinCEN's regulations.

### Currency vs. Virtual Currency

FinCEN's regulations define currency (also referred to as "real" currency) as "the coin and paper money of the United States or of any other country that [i] is designated as legal tender and that [ii] circulates and [iii] is customarily used and accepted as a medium of exchange in the country of issuance."<sup>3</sup> In contrast to real currency, "virtual" currency is a medium of exchange that operates like a currency in some environments, but does not have all the attributes of real currency. In particular, virtual currency does not have legal tender status in any jurisdiction. This guidance addresses "convertible" virtual currency. This type of virtual currency either has an equivalent value in real currency, or acts as a substitute for real currency.

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<sup>1</sup> FinCEN is issuing this guidance under its authority to administer the Bank Secrecy Act. See Treasury Order 180-01 (March 24, 2003). This guidance explains only how FinCEN characterizes certain activities involving virtual currencies under the Bank Secrecy Act and FinCEN regulations. It should not be interpreted as a statement by FinCEN about the extent to which those activities comport with other federal or state statutes, rules, regulations, or orders.

<sup>2</sup> FinCEN's regulations define "person" as "an individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture, or other unincorporated organization or group, an Indian Tribe (as that term is defined in the Indian Gaming Regulatory Act), and all entities cognizable as legal personalities." 31 CFR § 1010.100(mm).

<sup>3</sup> 31 CFR § 1010.100(m).



## **Background**

On July 21, 2011, FinCEN published a Final Rule amending definitions and other regulations relating to money services businesses (“MSBs”).<sup>4</sup> Among other things, the MSB Rule amends the definitions of dealers in foreign exchange (formerly referred to as “currency dealers and exchangers”) and money transmitters. On July 29, 2011, FinCEN published a Final Rule on Definitions and Other Regulations Relating to Prepaid Access (the “Prepaid Access Rule”).<sup>5</sup> This guidance explains the regulatory treatment under these definitions of persons engaged in virtual currency transactions.

## **Definitions of User, Exchanger, and Administrator**

This guidance refers to the participants in generic virtual currency arrangements, using the terms “user,” “exchanger,” and “administrator.”<sup>6</sup> A *user* is a person that obtains virtual currency to purchase goods or services.<sup>7</sup> An *exchanger* is a person engaged as a business in the exchange of virtual currency for real currency, funds, or other virtual currency. An *administrator* is a person engaged as a business in issuing (putting into circulation) a virtual currency, and who has the authority to redeem (to withdraw from circulation) such virtual currency.

## **Users of Virtual Currency**

A user who obtains convertible virtual currency and uses it to purchase real or virtual goods or services is *not* an MSB under FinCEN’s regulations.<sup>8</sup> Such activity, in and of itself, does not fit within the definition of “money transmission services” and therefore is not subject to FinCEN’s registration, reporting, and recordkeeping regulations for MSBs.<sup>9</sup>

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<sup>4</sup> *Bank Secrecy Act Regulations – Definitions and Other Regulations Relating to Money Services Businesses*, 76 FR 43585 (July 21, 2011) (the “MSB Rule”). This defines an MSB as “a person wherever located doing business, whether or not on a regular basis or as an organized or licensed business concern, wholly or in substantial part within the United States, in one or more of the capacities listed in paragraphs (ff)(1) through (ff)(7) of this section. This includes but is not limited to maintenance of any agent, agency, branch, or office within the United States.” 31 CFR § 1010.100(ff).

<sup>5</sup> *Final Rule – Definitions and Other Regulations Relating to Prepaid Access*, 76 FR 45403 (July 29, 2011),

<sup>6</sup> These terms are used for the exclusive purpose of this regulatory guidance. Depending on the type and combination of a person’s activities, one person may be acting in more than one of these capacities.

<sup>7</sup> How a person engages in “obtaining” a virtual currency may be described using any number of other terms, such as “earning,” “harvesting,” “mining,” “creating,” “auto-generating,” “manufacturing,” or “purchasing,” depending on the details of the specific virtual currency model involved. For purposes of this guidance, the label applied to a particular process of obtaining a virtual currency is not material to the legal characterization under the BSA of the process or of the person engaging in the process.

<sup>8</sup> As noted above, this should not be interpreted as a statement about the extent to which the user’s activities comport with other federal or state statutes, rules, regulations, or orders. For example, the activity may still be subject to abuse in the form of trade-based money laundering or terrorist financing. The activity may follow the same patterns of behavior observed in the “real” economy with respect to the purchase of “real” goods and services, such as systematic over- or under-invoicing or inflated transaction fees or commissions.

<sup>9</sup> 31 CFR § 1010.100(ff)(1-7).

## **Administrators and Exchangers of Virtual Currency**

An administrator or exchanger that (1) accepts and transmits a convertible virtual currency or (2) buys or sells convertible virtual currency for any reason *is* a money transmitter under FinCEN's regulations, unless a limitation to or exemption from the definition applies to the person.<sup>10</sup> FinCEN's regulations define the term "money transmitter" as a person that provides money transmission services, or any other person engaged in the transfer of funds. The term "money transmission services" means "the acceptance of currency, funds, or other value that substitutes for currency from one person *and* the transmission of currency, funds, or other value that substitutes for currency to another location or person by any means."<sup>11</sup>

The definition of a money transmitter does not differentiate between real currencies and convertible virtual currencies. Accepting and transmitting anything of value that substitutes for currency makes a person a money transmitter under the regulations implementing the BSA.<sup>12</sup> FinCEN has reviewed different activities involving virtual currency and has made determinations regarding the appropriate regulatory treatment of administrators and exchangers under three scenarios: brokers and dealers of e-currencies and e-precious metals; centralized convertible virtual currencies; and de-centralized convertible virtual currencies.

### ***a. E-Currencies and E-Precious Metals***

The first type of activity involves electronic trading in e-currencies or e-precious metals.<sup>13</sup> In 2008, FinCEN issued guidance stating that as long as a broker or dealer in real currency or other commodities accepts and transmits funds solely for the purpose of effecting a *bona fide* purchase or sale of the real currency or other commodities for or with a customer, such person is not acting as a money transmitter under the regulations.<sup>14</sup>

However, if the broker or dealer transfers funds between a customer and a third party that is not part of the currency or commodity transaction, such transmission of funds is no longer a fundamental element of the actual transaction necessary to execute the contract for the purchase or sale of the currency or the other commodity. This scenario is, therefore, money

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<sup>10</sup> FinCEN's regulations provide that whether a person is a money transmitter is a matter of facts and circumstances. The regulations identify six circumstances under which a person is not a money transmitter, despite accepting and transmitting currency, funds, or value that substitutes for currency. 31 CFR § 1010.100(ff)(5)(ii)(A)–(F).

<sup>11</sup> 31 CFR § 1010.100(ff)(5)(i)(A).

<sup>12</sup> *Ibid.*

<sup>13</sup> Typically, this involves the broker or dealer electronically distributing digital certificates of ownership of real currencies or precious metals, with the digital certificate being the virtual currency. However, the same conclusions would apply in the case of the broker or dealer issuing paper ownership certificates or manifesting customer ownership or control of real currencies or commodities in an account statement or any other form. These conclusions would also apply in the case of a broker or dealer in commodities other than real currencies or precious metals. A broker or dealer of e-currencies or e-precious metals that engages in money transmission could be either an administrator or exchanger depending on its business model.

<sup>14</sup> *Application of the Definition of Money Transmitter to Brokers and Dealers in Currency and other Commodities*, FIN-2008-G008, Sept. 10, 2008. The guidance also notes that the definition of money transmitter excludes any person, such as a futures commission merchant, that is "registered with, and regulated or examined by...the Commodity Futures Trading Commission."

transmission.<sup>15</sup> Examples include, in part, (1) the transfer of funds between a customer and a third party by permitting a third party to fund a customer's account ; (2) the transfer of value from a customer's currency or commodity position to the account of another customer ; or (3) the closing out of a customer's currency or commodity position , with a transfer of proceeds to a third party. Since the definition of a money transmitter does not differentiate between real currencies and convertible virtual currencies , the same rules apply to brokers and dealers of e -currency and e-precious metals .

***b. Centralized Virtual Currencies***

The second type of activity involves a convertible virtual currency that has a centralized repository. The administrator of that repository will be a money transmitter to the extent that it allows transfers of value between persons or from one location to another. This conclusion applies, whether the value is denominated in a real currency or a convertible virtual currency . In addition, any exchanger that uses its access to the convertible virtual currency services provided by the administrator to accept and transmit the convertible virtual currency on behalf of others, including transfers intended to pay a third party for virtual goods and services, is also a money transmitter.

FinCEN understands that the exchanger's activities may take one of two forms. The first form involves an exchanger (acting as a "seller" of the convertible virtual currency) that accepts real currency or its equivalent from a user (the "purchaser") and transmits the value of that real currency to fund the user's convertible virtual currency account with the administrator. Under FinCEN's regulations, sending "value that substitutes for currency" to another person or to another location constitutes money transmission , unless a limitation to or exemption from the definition applies.<sup>16</sup> This circumstance constitutes transmission ***to another location*** , namely from the user's account at one location (e.g., a user's real currency account at a bank) to the user's convertible virtual currency account with the administrator . It might be argued that the exchanger is entitled to the exemption from the definition of "money transmitter" for persons involved in the sale of goods or the provision of services . Under such an argument , one might assert that the exchanger is merely providing the service of connecting the user to the administrator and that the transmission of value is integral to this service. However, this exemption does not apply when the only services being provided are money transmission services.<sup>17</sup>

The second form involves a *de facto* sale of convertible virtual currency that is not completely transparent . The exchanger accepts currency or its equivalent from a user and privately credits the user with an appropriate portion of the exchanger's own convertible virtual currency held with the administrator of the repository . The exchanger then transmits that

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<sup>15</sup> In 2011, FinCEN amended the definition of money transmitter. The 2008 guidance, however, was primarily concerned with the core elements of the definition – accepting and transmitting currency or value – and the exemption for acceptance and transmission integral to another transaction not involving money transmission. The 2011 amendments have not materially changed these aspects of the definition.

<sup>16</sup> See footnote 11 and adjacent text.

<sup>17</sup> 31 CFR § 1010.100(ff)(5)(ii)(F).

internally credited value to third parties at the user's direction. This constitutes transmission *to another person*, namely each third party to which transmissions are made at the user's direction. To the extent that the convertible virtual currency is generally understood as a substitute for real currencies, transmitting the convertible virtual currency at the direction and for the benefit of the user constitutes money transmission on the part of the exchanger.

*c. De-Centralized Virtual Currencies*

A final type of convertible virtual currency activity involves a de-centralized convertible virtual currency (1) that has no central repository and no single administrator, and (2) that persons may obtain by their own computing or manufacturing effort.

A person that creates units of this convertible virtual currency and uses it to purchase real or virtual goods and services is a user of the convertible virtual currency and not subject to regulation as a money transmitter. By contrast, a person that creates units of convertible virtual currency and sells those units to another person for real currency or its equivalent is engaged in transmission to another location and is a money transmitter. In addition, a person is an exchanger and a money transmitter if the person accepts such de-centralized convertible virtual currency from one person and transmits it to another person as part of the acceptance and transfer of currency, funds, or other value that substitutes for currency.

**Providers and Sellers of Prepaid Access**

A person's acceptance and/or transmission of convertible virtual currency cannot be characterized as providing or selling prepaid access because prepaid access is limited to real currencies.<sup>18</sup>

**Dealers in Foreign Exchange**

A person must exchange the currency of two or more countries to be considered a dealer in foreign exchange.<sup>19</sup> Virtual currency does not meet the criteria to be considered "currency" under the BSA, because it is not legal tender. Therefore, a person who accepts real currency in

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<sup>18</sup> This is true even if the person holds the value accepted for a period of time before transmitting some or all of that value at the direction of the person from whom the value was originally accepted. FinCEN's regulations define "prepaid access" as "access to funds or the value of funds that have been paid in advance and can be retrieved or transferred at some point in the future through an electronic device or vehicle, such as a card, code, electronic serial number, mobile identification number, or personal identification number." 31 CFR § 1010.100(w). Thus, "prepaid access" under FinCEN's regulations is limited to "access to funds or the value of funds." If FinCEN had intended prepaid access to cover funds denominated in a virtual currency or something else that substitutes for real currency, it would have used language in the definition of prepaid access like that in the definition of money transmission, which expressly includes the acceptance and transmission of "other value that substitutes for currency." 31 CFR § 1010.100(ff)(5)(i).

<sup>19</sup> FinCEN defines a "dealer in foreign exchange" as a "person that accepts the currency, or other monetary instruments, funds, or other instruments denominated in the currency, of one or more countries in exchange for the currency, or other monetary instruments, funds, or other instruments denominated in the currency, of one or more other countries in an amount greater than \$1,000 for any other person on any day in one or more transactions, whether or not for same-day delivery." 31 CFR § 1010.100(ff)(1).

exchange for virtual currency, or *vice versa*, is not a dealer in foreign exchange under FinCEN's regulations.

\* \* \* \* \*

Financial institutions with questions about this guidance or other matters related to compliance with the implementing regulations of the BSA may contact FinCEN's Regulatory Helpline at (800) 949 -2732.

**From:** [Fahey Douglas A](#)  
**To:** [Corwin Erik H](#); [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Cc:** [Milnes-Vasquez Marie C](#)  
**Subject:** FinCEN Guidance  
**Date:** Wednesday, March 12, 2014 10:45:56 AM  
**Attachments:** [FIN-2013-G001\[1\].pdf](#)

---

Here is the FinCEN guidance.

Doug Fahey  
**NEW PHONE 202-317-4619**

**From:** [Jones, Ronald W](#)  
**To:** [Reese-Jacobs Donna Y](#); [Welsh Donna J](#)  
**Cc:** [Rutstein Joel S](#); [Novak, Danielle N](#); [Hanshaw, Lois](#); [Arkin, Jeffrey L](#)  
**Subject:** follow-up meeting with Counsel, GAO JC 451007 Exit Conference  
**Date:** Wednesday, March 27, 2013 2:44:50 PM  
**Importance:** High

---

Donna and Donna, please let me know how you would like to proceed on setting up, timing for subject meeting as we would need to get together in the next few days to stay on track with our reporting timeframes.

As I will be available off and on, please e-mail [Danielle](#) and copy me and the other GAO staff ([Jeff](#) and [Lois](#)) to avoid any delay in replies and setting up a mutually convenient time soon. Thanks as always, Ron

Ronald W. Jones,  
Senior Analyst, Tax Issues  
Strategic Issues  
U.S. Government Accountability Office  
2635 Century Parkway, Suite 700  
Atlanta, GA 30345  
e-mail: [jonesrw@gao.gov](mailto:jonesrw@gao.gov)  
voice: (404) 679-1975  
fax: (404) 679-1819  
For information about GAO: [www.gao.gov](http://www.gao.gov)  
Connect with GAO: [Twitter](#) | [Facebook](#)

-----Original Appointment-----

**From:** Reese-Jacobs Donna Y [<mailto:Donna.Y.Reese-Jacobs@irs.gov>]

**Sent:** Friday, March 22, 2013 4:48 PM

**To:** Reese-Jacobs Donna Y; Smith Molly M; Tuzynski Laurie; Canada Wanda; Rutstein Joel S; Koon Jodi L; Dobyns Becki J; Fahey Douglas A; Welsh Donna J; Larsen Eric R; Gillen Duane M; Jones, Ronald W; Warnken Todd A; Landsmann Michael A; Holmes Deborah L; Hall Charles A; \*SBSE GAO-TIGTA GTL  
**Cc:** Flack Rosemary; Iverson Peggy A; Cavanaugh Kimberly A; Cottrell Mark E; Griffin Adrienne E; Prasad Girish

**Subject:** GAO JC 451007 Exit Conference

**When:** Wednesday, March 27, 2013 1:00 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).

**Where:** Dial in number:

(b)(7)(E)

<< File: ATLANTA-#447789-v6-451007\_EXIT\_CONFERENCE\_AGENDA\_AND\_DISCUSSION\_TOPICS.DOCX >>

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**To:** [Welsh Donna J](#)  
**Subject:** forbs article  
**Date:** Friday, December 06, 2013 4:30:59 PM

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<http://www.forbes.com/sites/greatspeculations/2013/12/03/the-tricky-business-of-taxing-bitcoin/>



**From:** [Pflanz Shareen S](#)  
**To:** [Steward Andre J](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12  
**Date:** Monday, December 31, 2012 11:29:07 AM

---

Not sure if you need to know this.

---

**From:** Banks Kelly D **On Behalf Of** TSS4510  
**Sent:** Monday, December 31, 2012 10:43 AM  
**To:** Thomas Lowell D; TSS4510  
**Cc:** Moriarty John P; Welsh Donna J; Pflanz Shareen S; Goldstein Richard S; Han Seung H  
**Subject:** RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

I have opened a WLI for CC:ITA.

**This assignment has been uploaded to the ITA Share Point website.**

Kelly Banks  
Management Analyst  
Procedure and Administration  
Technical Support Services Branch/TSS4510

-----Original Message-----

**From:** Thomas Lowell D  
**Sent:** Monday, December 31, 2012 8:56 AM  
**To:** TSS4510  
**Cc:** Moriarty John P; Welsh Donna J; Pflanz Shareen S; Goldstein Richard S; Han Seung H  
**Subject:** FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Please open a WLI for CC:ITA, the case number is GAO-154334-12. Thanks.

-----Original Message-----

**From:** Goldstein Richard S  
**Sent:** Monday, December 31, 2012 8:03 AM  
**To:** Moriarty John P; Welsh Donna J; Pflanz Shareen S  
**Cc:** Thomas Lowell D  
**Subject:** FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Thanks, John. We'll have a WLI opened for ITA on this shortly.

Shareen and Donna,

Please let me know what your schedule is like for the next few weeks so that I can work on scheduling the meeting with GAO.

Richard

-----Original Message-----

From: Moriarty John P  
Sent: Monday, December 31, 2012 7:57 AM  
To: Goldstein Richard S  
Cc: Welsh Donna J; Pflanz Shareen S  
Subject: RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Richard,

Please open a WLI for ITA on this. It will be headed to Shareen and Donna in ITA:Br4.

Thanks.

John

-----Original Message-----

From: Henderson Lashonda C On Behalf Of TSS4510  
Sent: Wednesday, December 26, 2012 3:30 PM  
To: Thomas Lowell D  
Cc: Wilson Brenda D (NO); Keyso Jr. Andrew J; Moriarty John P; Goldstein Richard S; Han Seung H  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Per your request I have created the WLI, the case number is GAO-154334-12.

LaShonda C. Henderson  
Management Analyst  
IRS Chief Counsel  
Procedure and Administration (rm 5336)  
CC:PA:LPD:TSS  
(202) 622-9799 (Desk)  
Please send requests for N.O. Assignments to TSS4510.

-----Original Message-----

From: Thomas Lowell D  
Sent: Wednesday, December 26, 2012 1:58 PM  
To: TSS4510  
Cc: Wilson Brenda D (NO); Keyso Jr. Andrew J; Moriarty John P; Goldstein Richard S; Han Seung H  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)

Please open a TECHMIS case under the GAO category with Lowell Thomas as initiator, Richard Goldstein as reviewer, and with a WLI for P&A. No file is needed. Please send us the case number as soon as you have it. Thanks.

---

From: Goldstein Richard S  
Sent: Wednesday, December 26, 2012 12:57 PM  
To: Wilson Brenda D (NO); Keyso Jr. Andrew J; Moriarty John P  
Cc: Thomas Lowell D

Subject: GAO Audit # 451007 - Electronic commerce (code 451007)

Good afternoon,

I hope you had a terrific holiday!

GAO is conducting a review of virtual currencies and economies. As part of that review, they are interested in meeting with individuals in the Office of Chief Counsel to better understand the tax requirements imposed on those who participated in these economies. While P&A has the expertise with regard to any collection issues that may arise, as well as possible reporting requirements, IT&A should be represented as well for the section 61 and ordinary v. capital gain issues. Is there a branch (or individual) who I should contact to discuss when they may be available in the new year to meet with GAO. Thanks,

Richard

Please note: We will have a CASE-MIS number opened and WLI assigned to IT&A.

---

From: Jones, Ronald W [<mailto:JonesRW@gao.gov>]

Sent: Thursday, December 13, 2012 9:45 AM

To: Rutstein Joel S

Cc: Novak, Danielle N; Streagle, Sabrina C; Arkin, Jeffrey L

Subject: FW: request for contact, GAO review of electronic commerce (code 451007)

Joel, related to the below request and attachments (which I have followed up with Donna on), would you please provide a contact in Chief Counsel to set up a meeting to discuss the tax requirements related to virtual currencies and virtual economies? Thanks again, Ron

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**To:** [Welsh Donna J](#)  
**Cc:** [Fahey Douglas A](#); [Aqui Keith A](#); [Berman Samuel](#); [Ronk Alice L](#)  
**Subject:** FW: 1/10/14 TNT and BNA articles  
**Date:** Friday, January 10, 2014 11:00:18 AM  
**Attachments:** [bob on 475 pli.pdf](#)  
[helen at pli distressed debt.pdf](#)  
[bitcoin guidance needed.pdf](#)

---

We are meeting with TFI folks (the finance part of Treas.) next week (hopefully Monday but I haven't heard back from everyone) to resolve a couple of issues with their comments. I will keep you posted.

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irs.counsel.treas.gov>]  
**Sent:** Friday, January 10, 2014 10:56 AM  
**To:** Hodes, Rochelle  
**Cc:** Fahey, Douglas A; Aqui, Keith A; Berman, Samuel; Ronk Alice L  
**Subject:** FW: 1/10/14 TNT and BNA articles

Hi Rochelle, Please see the attached Articles. Just following up, have you received the comments from the other parts of Treasury?

Thanks a bunch!

---

**From:** Blanchard William E  
**Sent:** Friday, January 10, 2014 7:48 AM  
**To:** &FIPLegal; Walli Karl - OTP; Novey Michael - OTP; Guiliano Vincent J; Milnes-Vasquez Marie C; Brickates Lewis K; Colson Faith P; Fahey Douglas A; Welsh Donna J  
**Subject:** 1/10/14 TNT and BNA articles

## Bitcoin Tax Rules Needed for Clarity, Taxpayer Advocate Tells Congress

By [Richard Rubin](#) and [Carter Dougherty](#)

The Internal Revenue Service should give taxpayers clear rules on how it will handle transactions involving Bitcoin and other digital currencies, National Taxpayer Advocate Nina Olson said Jan. 9.

Spending Bitcoins to purchase goods may trigger capital gains and losses or ordinary income and losses, which have different tax rates, Olson said in her annual report to Congress (see [related story](#) in this issue).

"It is the government's responsibility to inform the public about the rules they are required to follow," she wrote. "The lack of clear answers to basic questions such as when and how taxpayers should report gains and losses on digital currency transactions probably encourages tax avoidance."

Olson, who runs an independent office within the IRS, listed digital currency as one of the 25 most serious issues encountered by taxpayers.

Also atop Olson's list were the absence of a clear set of taxpayer rights and the decline in IRS service and enforcement stemming from budget cuts, issues on which she has repeatedly urged change.

Olson has a new audience this year in John Koskinen, who was sworn in as IRS commissioner Dec. 23.

"What taxpayers need and deserve is the transformation of the IRS from a traditional enforcement-focused tax agency to a forward-looking modern agency that embraces technology even as it recognizes the specific needs of taxpayers for personal assistance," she wrote.

## Virtual Currencies

Introduced in 2008 by a programmer or group of programmers under the name Satoshi Nakamoto, Bitcoin is the most prominent of a group of virtual currencies—money that exists mainly as a string of code—that have no central issuing authority.

"Miners" unlock new Bitcoins by using ever-faster computers to solve complex mathematical problems and transactions are recorded anonymously in a public ledger. Today, even with its young age and regulatory uncertainties, Bitcoin can be used to pay for T-shirts, food or an appointment with a Manhattan psychiatrist.

The IRS hasn't offered guidance on Bitcoin, beyond saying that it is working on the issue and that it has been monitoring digital currencies and transactions since 2007. The IRS today reiterated a statement it issued in December.

"The IRS is aware of the potential tax compliance risks posed by virtual currencies," it said in the statement. "The IRS continues to study virtual currencies and intends to provide some guidance on the tax consequences of virtual currency transactions."

According to Olson's report, a big distinction for the IRS to make is whether Bitcoin is property, in which case capital gains rules would apply with a top basic rate of 20 percent. If it's treated like a "nonfunctional currency," ordinary income tax rates would apply with a top rate of 39.6 percent.

Sen. Tom Carper (D-Del.), chairman of the Homeland Security and Governmental Affairs Committee, said he agrees with Olson and warned that IRS needs to "adapt accordingly" as new technologies take hold.

"Other nations around the world are also grappling with these questions surrounding digital currency and it's important for the U.S. to continue to demonstrate leadership and forward thinking. I am hopeful that the new Internal Revenue Service Commissioner, John Koskinen, takes these recommendations to heart and acts expeditiously to provide thoughtful guidance to taxpayers regarding the use of digital currencies," Carper said.

The IRS can't outlaw Bitcoin, said Joshua Blank, a tax law professor at New York University. It can use past experience to require information reporting about transactions. Tax compliance rates are highest when there is third-party reporting, particularly with wage data that employers send to the IRS. Compliance rates are lowest with no such reporting, as with self-employment income.

"The danger is the creation of an electronic black market, similar to the cash economy," Blank said. "That's what the IRS wants to avoid."

**From:** [Welsh Donna J](#)  
**To:** [Berman Samuel](#); [Shepherd Neil D](#); [Richards John B](#); [Aqui Keith A](#)  
**Cc:** [Fahey Douglas A](#); [Warren Brinton T](#)  
**Subject:** FW: 9/20/13 WSJ and BNA articles--851 regs/bitcoins  
**Date:** Friday, September 20, 2013 10:53:53 AM

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There is still a lot of mining going on according to last article.

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**From:** Blanchard William E  
**Sent:** Friday, September 20, 2013 7:07 AM  
**To:** &FIPLegal; Walli Karl - OTP; Novey Michael - OTP; Guiliano Vincent J; Milnes-Vasquez Marie C; Brickates Lewis K; Colson Faith P; Welsh Donna J  
**Subject:** 9/20/13 WSJ and BNA articles--851 regs/bitcoins

## Glitch Blocked Goldman at Treasury Auction

A glitch at the U.S. Treasury's bidding system last week blocked Goldman Sachs's multibillion-dollar order for three-month Treasury bills, altering prices in the U.S. debt market

## Two Corporations Can Constitute a Controlled Group

By Robert Willens

Section 851(b)(3)(B) provides that, to qualify as a regulated investment company (RIC), a taxpayer must meet a diversification test pursuant to which not more than 25 percent of the value of the taxpayer's total assets may be invested in:

- the securities (other than government securities or the securities of other RICs) of any one issuer;
- the securities (other than the securities of other RICs) of two or more issuers that the taxpayer controls, and that are determined to be engaged in the same or similar trades or businesses or related trades or businesses; or
- the securities of one or more "qualified publicly traded partnerships."

The "controlled group" rules in Section 851(c) provide that, when ascertaining the value of a taxpayer's investment in the securities of a particular issuer, the proportion of any investment in the securities of such issuer by a member of the taxpayer's controlled group should be aggregated with the taxpayer's investment in such issuer.

Section 851(c)(3) defines a controlled group as one or more chains of corporations connected through stock ownership with the taxpayer if:

- 20 percent or more of the total combined voting power of all classes of stock entitled to vote of each of the corporations (except the taxpayer) is owned directly by one or more of the other corporations; and
- the taxpayer owns directly at least 20 percent of the total combined voting power of all classes of stock entitled to vote of at least one of the other corporations.

### Proposed Rules Revise Examples

Some practitioners have interpreted Section 851(c)(3) to require the presence of two levels of controlled entities for a controlled group to exist, and have relied on certain examples in the regulations

to support this interpretation. The Internal Revenue Service and the Treasury Department believe that this interpretation is unwarranted.

Accordingly, through revisions to the examples, proposed regulations (REG-114122-12) clarify that two corporations constitute a controlled group if the ownership requirements of Section 851(c)(3) are met ([149 DTR G-10, 8/2/13](#)).

For purposes of the analogous consolidated return rules, the Service has consistently treated a parent and its directly owned subsidiary as affiliated within the meaning of Section 1504(a)(1) regardless of whether the subsidiary controls another subsidiary. Likewise, in limiting certain tax benefits for affiliated corporations, the IRS treats a parent and its subsidiary as a controlled group under Section 1563, which uses language similar to Section 1504(a), regardless of whether the subsidiary controls another entity.

The interpretation reflected in the proposed regulations is also consistent with the purpose of Section 851(c)(3), which is to aggregate the investments of related corporations for purposes of the asset diversification test.

The Service and the Treasury Department believe that the language in the examples in the existing regulations was intended merely to simplify the description of certain fact patterns, and not to articulate a legal interpretation that is inconsistent with the construction of substantially similar language elsewhere in the Internal Revenue Code and that is unsupported by practical or policy considerations grounded in the statutory scheme.

The proposed regulations update examples in existing Regulations Section 1.851-5. This update clarifies the controlled group rules and confirms that they are applied in a manner consistent with Section 1504 and Section 1563. The relevant examples are outlined below.

#### Example 1

W has its assets invested as follows:

- cash (5 percent);
- government securities (10 percent);
- securities of RICs (20 percent);
- securities of A (10 percent);
- securities of B (15 percent);
- securities of C (20 percent); and
- securities of various corporations, not exceeding 5 percent of its assets in any one corporation (20 percent).

W owns all of the voting of A and B, 15 percent of the voting stock of C and less than 10 percent of the voting stock of the RICs and the various other companies. Neither A nor B owns 20 percent or more of the voting stock of any other corporation, securities issued by C or securities issued by any of the RICs or various corporations whose securities are owned by W.

W meets the requirements under Section 851(b)(3). It complies with Section 851(b)(3)(A) because it has 55 percent of its assets invested as provided in that subparagraph.<sup>1</sup> It complies with Section 851(b)(3)(B) because it doesn't have more than 25 percent of the value of its assets invested in the securities of any one issuer or of two more issuers that the taxpayer controls.

<sup>1</sup> Section 851(b)(3)(A) provides that at least 50 percent of the value of the RIC's total assets must be represented by cash and cash items, government securities, and securities of other RICs and other securities, for purposes of this calculation limited in respect of any one issuer to an amount not greater in value than 5 percent of the value of the total assets of the taxpayer and to not more than 10 percent of the outstanding voting securities of such issuer.

#### Example 3

X has its assets invested as follows:

- cash and government securities (20 percent);
- securities of A (5 percent);
- securities of B (10 percent);
- securities of C (25 percent); and
- securities of various corporations, not exceeding 5 percent of its assets in any one corporation (40 percent).

X owns more than 20 percent of the voting power of B and C and less than 10 percent of the voting power of all the other corporations. B manufactures radios and C acts as its distributor and also distributes radios for other companies.

X fails to meet the requirements of Section 851(b)(3)(B) since it has 35 percent of its assets invested in the securities of two issuers that it controls and that are engaged in related trades or businesses.

#### Example 4

Y has its assets invested as follows:

- cash and government securities (15 percent);
- securities of K, a RIC (30 percent);
- securities of A (10 percent);
- securities of B (20 percent); and
- securities of various corporations, not exceeding 5 percent of its assets in any one corporation.

K has 20 percent of its assets invested in L and L has 40 percent of its assets invested in B. A has 30 percent of its assets invested in B. Y owns more than 20 percent of the voting power of A and K, and K owns more than 20 percent of the voting power of L.

Y is disqualified because, after applying Section 851(c)(1), more than 25 percent of the value of Y's total assets is invested in the securities of B. The percentage of assets invested directly in B is 20 percent; the percentage invested through K and L is 2.4 percent ( $30 \text{ percent} \times 20 \text{ percent} \times 40 \text{ percent}$ ); and the percentage invested through A is 3 percent ( $10 \text{ percent} \times 30 \text{ percent}$ ).

#### Example 7

T has its assets invested as follows:

- cash and government securities (40 percent);



- securities of A (20 percent);
- securities of various qualified publicly traded partnerships (15 percent); and
- securities of various corporations, not exceeding 5 percent of its assets in any one corporation.

T owns more than 20 percent of the voting power of A and less than 10 percent of the voting power of all the other corporations. A has 80 percent of its assets invested in qualified publicly traded partnerships.

T is disqualified because, after applying Section 851(c)(1), more than 25 percent of the value of T's total assets is invested in the securities of one or more qualified publicly traded partnerships. T and A constitute a controlled group even though A doesn't control any other corporations. The percentage of assets invested directly in the partnerships is 15 percent and the percentage invested indirectly through A is 16 percent (20 percent × 80 percent), for a total percentage of assets of T invested in qualified publicly traded partnerships of 31 percent.

#### Mutual Fund Investments Targeted

It is believed that the tendency of certain mutual funds investing in publicly traded partnerships to circumvent the limitations of Section 851(b)(3)(B) through investments in such partnerships by the mutual fund and its direct subsidiaries (none of which controlled any other corporations) was the phenomenon which led the IRS to issue these proposed regulations clarifying the definition of controlled group for purposes of Section 851(c).

These funds took the position that no controlled group existed, because none of the fund's subsidiaries controlled any other corporations and, hence, there was an absence of at least two levels of controlled entities, with the result that much more than 25 percent of the assets of the fund and its subsidiaries were invested in qualified publicly traded partnerships, yet the restrictions imposed by Section 851(b)(3)(B) weren't breached.

These proposed regulations insure that these mutual funds will have to limit their holdings of such partnerships to not more than 25 percent of the value of their total assets, calling into question whether these funds will continue to appeal to investors who desire a greater exposure to publicly traded partnerships. <sup>2</sup>

<sup>2</sup> See Salient MLP & Energy Infrastructure Fund, news release dated Aug. 6, 2013. "On August 2, 2013, the I.R.S. issued proposed regulations which ... would require the Fund to aggregate investment holdings of its Subsidiary (in which 25 percent of the Fund's assets are invested and in which it owns 100 percent of the voting stock) with its direct investment holdings for purposes of determining whether more than 25 percent of its total assets are invested in the securities of one or more qualified publicly traded partnerships .... If the proposed regulations are adopted ... the Fund would reduce its overall investment in MLPs, whether held by the Fund directly or held by the Subsidiary ...."

## For Virtual Prospectors, Life in the Bitcoin Mines Gets Real

Temperatures, Electric Bills Rise as Enthusiasts Hunt for Web Currency

Aubrey McIntosh has taken up mining in his spare time, and he's finding it hard and hot—even if it's prospecting for a virtual currency and a computer is doing all of the work.

Mr. McIntosh, a semiretired chemistry professor in Morris, Minn., is among the growing ranks of enthusiasts who use powerful computers to "mine," in insider parlance, "bitcoins," an unregulated digital currency.

Aubrey McIntosh keeps a bitcoin mining rig in his Minnesota basement.

Mr. McIntosh keeps his specialized computer, which he said cost about \$1,500 and is custom-built to find bitcoins, near the chimney flue in his basement to try to get rid of all the heat it generates.

"It sounds like an aircraft carrier," he said. Since turning the computer on his electricity bill has about doubled.

Bitcoins aren't physical objects that you can put in your pocket. [Bitcoin](#) is a virtual currency—launched in 2009 by a person or group going by the name "Satoshi Nakamoto"—that isn't backed by a government. Units of the currency exist only online but are sometimes traded for real goods and services. Users send the bitcoins to each other using digital addresses.

Few merchants take bitcoins as payment, but the number is growing. For example, WordPress.com, a blogging service, and dating website OkCupid both accept bitcoins. There are also currency exchanges that let users trade bitcoins for U.S. dollars and other countries' currencies.

Bitcoin is attracting attention as a wildly volatile, all-digital currency. How does it work? How are criminals taking advantage of it? How risky an investment is it? In this Bitcoin explainer, WSJ's Jason Bellini has "The Short Answer."

Bitcoins are mined by a decentralized network of computers that guess solutions to a mathematical puzzle. As part of that process, miners keep track of and verify all transactions on the [bitcoin](#) network, so bitcoins are a kind of compensation for maintaining the ledger of transactions. The faster a person's computer system can find solutions relative to the rest of the network, the better chance he or she has of being awarded bitcoins.

That can require powerful computer equipment to keep up with competitors. Some people spend tens of thousands of dollars on custom-built "mining rigs" that they say can triple their homes' electricity bills and raise room temperatures by 20 degrees or more. For some miners, the payoff has been only virtual thus far. Many either hang on to the bitcoins or trade them for traditional currencies on online exchanges. On Thursday, one bitcoin fetched about \$135 on Tokyo-based Mt. Gox, one of the largest bitcoin currency exchanges.

Cameron and Tyler Winklevoss, the twins known for battling Mark Zuckerberg over ownership of Facebook Inc., recently proposed the creation of an exchange-traded fund to track bitcoin, though regulators haven't yet said if they will approve it.

While Mr. McIntosh, the chemistry professor, says he has made more money than he has spent on mining, he tries not to talk to his extended family about it. "I think the whole concept of bitcoin would alarm them," he said.

The system is designed so that only about 21 million bitcoins will ever be mined. So far, about 11.7 million bitcoins have been mined, leaving 9.3 million up for grabs.

That has led to an arms race. The first miners in 2009 used standard home computers. By 2011, they discovered that computer graphics cards, commonly used to render graphics in videogames, could perform the calculations faster. Now, startup hardware companies sell mining rigs designed with no other purpose than to find bitcoins.

For David Perry, a 30-year-old software developer in Las Vegas, things got so out of hand that he had to buy a second air-conditioning unit just to keep his 700-square-foot apartment habitable. During the summer of 2012, he said, his monthly electric bill hit \$700, more than five times the normal amount. His mining rig included 14 computer graphics cards, which then were among the most effective kinds of equipment to find the currency.

Although he said he has "more than 10 times recouped" in bitcoins his \$2,500 investment in hardware even after factoring in electricity costs, his wife is still skeptical of the operation. "It got so hot that we realized we were living in our own personal hell," said Mr. Perry, who now blogs about bitcoin-mining equipment.

Software developer Daniel Mross, who is 35 years old and lives in Pittsburgh, recently shut down his bitcoin rig after two years of mining. At its peak, his setup included four computers with a dozen computer graphics cards, among other equipment.

"It threw off a hell of a lot of heat, much to my wife's dismay," he said. But, he added, "It was nice in winter time."

Mr. Mross said his monthly electric bill once almost hit \$700, up from the typical \$250. Though he shut down his rig, Mr. Mross is making a documentary, called "The Rise and Rise of Bitcoin," in which he tells his mining story.

A major factor that did in Mr. Mross was the advent of pricey computer systems designed especially for bitcoin mining.

One startup, Butterfly Labs in Overland Park, Kan., sells mining rigs that cost as much as \$22,484. Co-founder Jeff Ownby said his company consistently sells out each time it releases a batch of new mining rigs.

The bigger systems can be a strain on residential power capabilities. James Gibson, a former Web applications developer, started a mining operation out of his apartment in Orlando, Fla., in 2011 but quickly outgrew it.

"We couldn't have the TV on and keep all the miners on at the same time," he said. "The circuit would pop." Now, he rents space in four data centers in Kansas, in part to make sure his 27 mining rigs never lose power or Internet connectivity.

Mr. McIntosh has figured out a way to limit losses. Before receiving his new \$1,500 bitcoin mining machine this summer, he sold investors 69 "shares" of the rig, worth 1% of its future findings.

The deal allowed him to make back his investment even before turning the machine on, he said. The shares sold for between 0.8 and 1.4 bitcoins each.

Michael B. Taylor, a computer science professor at the University of California, San Diego who has also written a paper on bitcoin, in March bought four of the shares for what he said was about the equivalent of \$315 at the time. He said he receives bitcoin "dividends" every week. But the payout is dropping as other bitcoin miners throw evermore firepower into their operations. Given the arms race for mining equipment, the rig, said Mr. Taylor, is "guaranteed to be obsolete in a year."

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: 12/5/13 TNT, BNA, and WSJ articles (including 871, NII, and bitcoin)  
**Date:** Thursday, December 05, 2013 10:15:36 AM

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FYI

Doug Fahey  
**NEW PHONE 202-317-4619**

# Bitcoin Market Gets a Lift From China

## BTC China, Nation's Biggest Exchange for Currency, Plays Growing Role in Trading

Updated Dec. 4, 2013 5:05 p.m. ET

BEIJING—Chinese demand has helped fuel a boom in the virtual currency called bitcoin. But even as prices reach new highs, Li Xiaolai says he won't sell.

Mr. Li, 41 years old, is one of China's biggest bitcoin holders, according to a fledgling community of bitcoin watchers in Beijing. The former English test-prep teacher won't disclose specifics but says his bitcoin holdings are "in the six figures with the first figure being one." With bitcoin prices soaring to around \$1,000 each, that makes his stake worth more than \$100 million.

"It's the first time China can lead the world," says Mr. Li, who cites local innovations in chips, web applications and other parts of the bitcoin ecosystem.

China has become increasingly important to the fate of the four-year-old currency, which isn't backed by any central bank and is created through a complicated computing process called mining. BTC China, the country's biggest bitcoin exchange, in the last 30 days averaged 64,000 bitcoin in daily trading volume, according to BTC China Chief Executive Bobby Lee.

Over that period, the exchange accounted for more than one-third of volume world-wide, up from about 20% over the past six months, according to industry tracker Bitcoinity. In November, the price on BTC China jumped four-fold, hitting a record for the exchange of 7,395 yuan, or \$1,214, on Dec. 1.

Attention to bitcoin in the Chinese media has drawn a number of amateur investors into the market. "Our generation doesn't have enough money to invest in property and I don't understand economics well enough to invest in the stock market," says Xiong Bin, 33, the manager of a beauty salon in China's southern Guangxi region. Mr. Xiong says he started buying in mid-November and now has less than 40,000 yuan (about \$6,600) in the market. "I am grateful for the media coverage," he says,

because it allowed him to learn about the currency.

The growth of interest from China is increasingly cited as a reason for the soaring prices, but the actual impact of Chinese demand is difficult to measure. Kacper Ciesla, founder of Bitcoinity, says trading volume on BTC China went up significantly after the exchange removed trading fees.

"Soon after that we had a [global] bitcoin price run up," Mr. Ciesla said via email.

The question for many is how China's role in the market will evolve.

China keeps a firm grip on its currency, the yuan, as well as capital flows inside and outside the country, raising questions about whether it would approve of a virtual currency that can be easily transferred via the Internet and converted. Beijing has moved to clamp down on virtual currencies in the past, with a 2009 statement prohibiting their use to buy "real goods and services." That put an end to QQ coins, a virtual currency distributed by Chinese Internet conglomerate [Tencent Holdings](#) Ltd.

Last month, People's Bank of China Vice Gov. [Yi Gang](#) said that China won't recognize bitcoin for now, but suggested authorities will tolerate the currency for the present. "If you want to take the risk—and remember that prices rise and fall—it's your business," he told a financial seminar.

The bitcoin market is so "sporadic" at the moment that China doesn't know how it will pan out, leading authorities to choose to wait and watch "what the U.S. is doing," says David Kiang, former chief executive of domestic bank First Sino Bank, who doesn't own any bitcoin. If the market grows to a "significant" volume, "it will be hard for China to accept," he says.

Volatility is another issue. China's newfound wealth has hit up against government investment restrictions in recent years, contributing to a number of booms and busts. Its main stock-market index is at less than half the high it reached in 2007. Other assets that have seen quick run-ups and retreats include coins, tea, ginseng and even caterpillar fungus, which in Chinese medicine is believed to help male virility. Meanwhile, property, a main savings vehicle, has shot up in price and is out of reach for many.

This week, Chinese authorities said they detained three people who they alleged had operated a bitcoin-trading platform called Global Bond Ltd. but shut it down, cheating investors of their money. The platform didn't get the proper licenses to operate in its home in Hong Kong, the authorities said. Phone numbers listed on Global Bond's incorporation documents rang unanswered.

One investor was Xu Yuanda, a 19-year old from Jiangsu province, in eastern China, who says that he sank what was worth more than 12,000 yuan of bitcoin into the site before getting out with 4,000 yuan in September. He says he has moved on to buying other virtual currencies, adding that his holdings there have more than tripled recently. He hasn't sold yet, he says, but plans "short-term trading."

Many who have bet on bitcoin in China acknowledge the short-term speculation even as they stress the currency's longer-term prospects. Ron Cao, managing director of Lightspeed China Partners, a venture-capital firm that invested \$5 million in BTC China, says he would rather see "a healthier price increase" than bitcoin's recent spectacular rise.

BTC China's Mr. Lee says that the exchange's studies show "the vast majority [on BTC China] are buying bitcoin for investment purposes, hoping that prices will go up in the long term." Bitcoin faces a "bumpy ride" as its circulation value increases, he says.

Bitcoin investors in China say they are aware of the risks, including the lack of a public discussion by top officials on whether, and how, the currency should be regulated.

"At least in the U.S., they are acknowledging it," says Long Yujiang, a 25-year old Chinese from the southwestern city of Chengdu, who says his bitcoin are worth roughly \$200 million at current prices. Last month, the U.S. Senate held hearings on virtual currencies, including testimony from senior law-enforcement and regulatory officials.

Mr. Long, who sells flight-simulation equipment, moonlights as a seller of bitcoin mining machines but plans to sell them only in the U.S., where he says the industry will be "better protected."

Many of China's top bitcoin evangelists have ties to the country's burgeoning start-up culture, which has been bolstered by the spread of smartphones and the success of app developers. Mr. Li, the former teacher, frequents Beijing's Garage Café, which serves coffee but also offers incubator space for entrepreneurs. It is one of the few places in China that accept bitcoin as payment.

On a recent afternoon, a number of Chinese discussed their various bitcoin projects in back rooms while huddled over laptops. In the main café area, a person on stage with a microphone gave a talk on bitcoin.

Mr. Li, a two-pack-a-day smoker, taps his teaching background when talking about bitcoin, with animated lectures punctuated with diagrams he draws on a whiteboard. He has invested some of his bitcoin in ventures related to the currency, including one that would offer savings accounts and pay interest in bitcoin.

Some of the most innovative work, he says, comes from Chinese developers making chips for bitcoin miners. People in China "can see all these things that Americans can only imagine," he said.

He first learned about bitcoin from an article in 2011, while working for New Oriental Education & Technology Group Inc. EDU +0.27%. Mr. Li bought Apple shares using dollars he raised by selling stock in the Chinese education company after its U.S. initial public offering, only to cash out again. This time, he bought \$12,000 worth of bitcoin on the Japan-based exchange Mt. Gox.

Bitcoin aside, Mr. Li says he mostly lives off of 50,000 yuan per year in after-tax income from royalties, mainly for test-prep books. "I don't spend much," he says. "I thought China's property prices are too high so I never bought a house."

# Yield on 10-Year Note Sets Sights on 3% Again

## Expectations of a Fed Pullback This Month Push Up Key Rates

By Min Zeng

Updated Dec. 4, 2013 8:21 p.m. ET

Treasury bond yields rose to their highest level since September amid revived concerns that the Federal Reserve may cut back its \$85-billion-a-month bond-buying program before the end of this year.

Bond prices fell Wednesday, sending the 10-year note's yield to as high as 2.852%, nearing the 3% mark touched this past summer when investors bet the Fed would retreat from buying Treasury and mortgage bonds at its September policy meeting. The yield on the 10-year Treasury note briefly traded above 3% on Sept. 6 for the first...

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Cc:** [Meola Karla M](#); [Moriarty John P](#)  
**Subject:** FW: ABA Section of Taxation Comments on Notice 2014-21 (IRS Virtual Currency Guidance)  
**Date:** Tuesday, March 24, 2015 2:30:52 PM  
**Attachments:** [ABA Tax Section Comments on Notice 2014-21.pdf](#)

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Donna and Keith—

Attached are comments from the ABA in response to our virtual currency guidance. Please share with the others in the various Associate Chief Counsel offices who participated. I'm copying Karla on this email. Now that Doug is retired please keep Karla in the loop on VC and bitcoin matters. Thanks.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

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**From:** ABA Section of Taxation [<mailto:Taxlserve@staff.abanet.org>]  
**Sent:** Tuesday, March 24, 2015 1:56 PM  
**To:** [john.koskinen@irs.gov](mailto:john.koskinen@irs.gov)  
**Cc:** Wilkins William J; Corwin Erik H; Keyso Jr. Andrew J; Musher Steven A; Mark Mazur ; [emily.mcmahon@treasury.gov](mailto:emily.mcmahon@treasury.gov); West Thomas  
**Subject:** ABA Section of Taxation Comments on Notice 2014-21 (IRS Virtual Currency Guidance)

The attached letter is sent on behalf of the American Bar Association Section of Taxation and includes "Comments on Notice 2014-21."



**From:** [Welsh Donna J](#)  
**To:** [Moriarty John P](#)  
**Subject:** FW: as discussed--for our discussion purposes only  
**Date:** Friday, February 07, 2014 10:09:14 AM  
**Attachments:** [Bitcoin Notice 2-5-14 5PM rlh kw.docx](#)

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**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, February 06, 2014 3:14 PM  
**To:** Welsh Donna J  
**Subject:** FW: as discussed--for our discussion purposes only

Donna, here it is – Treasury's proposed reinsertions. Please do not forward this draft to anyone. I promised Rochelle that only you and I would look at it at this point.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

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**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Thursday, February 06, 2014 3:06 PM  
**To:** Keyso Jr. Andrew J  
**Subject:** as discussed--for our discussion purposes only

**Rochelle Hodes**  
Office of Tax Policy  
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1500 Pennsylvania Ave., NW  
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**From:** [Fahey Douglas A](#)  
**To:** [Agui Keith A](#); [Welsh Donna J](#); [Stahl Raymond J](#); [Hall Charles A](#); [Griffin Adrienne E](#); [Prasad Girish](#); [Erwin Mark E](#); [Dubert Alexa T](#); [Blanchard William E](#); [Shepherd Neil D](#); [Cook Janine](#); [Needle Martin E - CT](#)  
**Subject:** FW: Australian tax treatment of decentralized VC  
**Date:** Thursday, August 21, 2014 9:38:03 AM

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FYI

**Doug Fahey**  
**202.317.4619**

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**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Thursday, August 21, 2014 7:33 AM  
**To:** Anne.Wallwork@treasury.gov; Karl.Walli@treasury.gov; Fahey Douglas A  
**Subject:** Re: Australian tax treatment of decentralized VC

Thanks. Including Doug so he can include those interested at 1111.

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**From:** Wallwork, Anne  
**Sent:** Wednesday, August 20, 2014 06:11 PM  
**To:** Hodes, Rochelle; Walli, Karl  
**Subject:** Australian tax treatment of decentralized VC

Thought this would interest you.

### **Australia's Tax Office Releases Virtual Currency Guidelines**

ATO (Australian Taxation Office) just released its guidance on the tax treatment of cryptocurrencies. The set of regulations coincides with Australia's 2013-2014 income tax returns. The newly released set of regulations coincides with Australia's 2013-2014 income tax returns. Michael Hardy, senior assistant commissioner, says: "The guidance paper and draft tax rulings issued today provide certainty for the Australian community on the ATO's treatment of crypto-currencies within the current legislative framework." The guidance paper offers a detailed outline of the tax treatment for transactions linked to cryptocurrencies, particularly Bitcoin. **Using Bitcoin for personal use** - There won't be any GTS or income tax implications for people using Bitcoin for personal transactions. **Using Bitcoin for business** - those who want to use Bitcoin for business and trade it for services and goods will have to record the value of the purchases in Australian dollars, and mention it as part of their income. **Using Bitcoin for services and goods** - businesses looking to buy business items with Bitcoin are entitled to a deduction derived from the value of those specific items. **Capital gains** - ATO mentions that there may be capital gain tax consequences when companies will disposal of bitcoins. **Using Bitcoin to pay for salaries** - when employees have a working contract with a company, and they choose to be paid in bitcoins rather than Australian dollars, the payment is considered as fringe benefits, which means the employer will be susceptible to provisions of the Fringe Benefits Tax Assessment Act. **Mining Bitcoin** - income derived from mining bitcoins as a business will be included in that company's assessable income. During the mining process, any expenses incurred would receive a deduction. Loss during the mining process may lead to non-commercial loss provisions. <https://www.ato.gov.au/General/Gen/Tax-treatment-of-crypto-currencies-in-Australia---specifically-bitcoin/>

Anne Shere Wallwork  
Senior Counselor for Strategic Policy  
Office of Terrorist Financing and Financial Crimes  
U.S. Department of the Treasury  
202 622-1226 (office); 202 577-4079 (mobile)

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Bitcoin article  
**Date:** Friday, January 17, 2014 10:19:04 AM  
**Attachments:** [Sacramento Kings to Accept Bitcoin -- WSJ.docx](#)

---

FYI

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Keyso Jr. Andrew J  
**Sent:** Friday, January 17, 2014 9:26 AM  
**To:** Fahey Douglas A  
**Subject:** FW: Bitcoin article

Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

---

**From:** Corwin Erik H  
**Sent:** Friday, January 17, 2014 9:21 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Corwin Erik H; Milnes-Vasquez Marie C  
**Subject:** FW: Bitcoin article

Thanks Marie. I heard a report on this on CNN last night also. If I am recalling correctly, the CNN report also noted that [www.overstock.com](http://www.overstock.com) was also planning on accepting bitcoin.

---

**From:** Milnes-Vasquez Marie C  
**Sent:** Friday, January 17, 2014 9:08 AM  
**To:** Corwin Erik H  
**Subject:** Bitcoin article

Interesting WSJ story. The Sacramento Kings are accepting Bitcoin, both at the arena and on-line.

**Marie C. Milnes-Vasquez**  
**Chief, CC:Corp:Br4**

***Detailed to Deputy Chief Counsel (Technical)***

Main IR, Rm 3034

202-317-4105 (temp direct dial)

[Marie.C.Milnes-Vasquez@irscounsel.treas.gov](mailto:Marie.C.Milnes-Vasquez@irscounsel.treas.gov)

**From:** [Welsh Donna J](#)  
**To:** [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Aqui Keith A](#); [Stahl Raymond J](#)  
**Subject:** FW: Bitcoin Closer to Attaining Lawful Money Status in California  
**Date:** Monday, June 09, 2014 1:26:07 PM

---

Fyi...

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**From:** Utzke David J [mailto:David.Utzke@irs.gov]  
**Sent:** Monday, June 09, 2014 12:07 PM  
**To:** Edelman Edward M; Berman Samuel; Welsh Donna J; Carter Kareem A; Griesbach David  
**Cc:** [george.hurst@dhs.gov](mailto:george.hurst@dhs.gov)  
**Subject:** Bitcoin Closer to Attaining Lawful Money Status in California

All:

The California state legislature's effort to effectively legalize bitcoin, along with a host of other altcoins, as forms of money cleared an important procedural stage last Wednesday (June 4<sup>th</sup>) as it moved closer to becoming law.

The California Senate Banking and Financial Institutions Committee voted overwhelmingly in favor of AB-129, the bill authored by Assemblymember Roger Dickinson that would recognize digital currencies, points and coupons, among other US dollar alternatives, as lawful money.

The 7-1 vote by the committee means the bill will move to the Senate floor for debate.

If approved, the bill will then go to California Governor Jerry Brown's desk for signature. AB-129 was sent to the Senate committee in February after receiving unanimous approval in the Assembly.

The latest version of the bill, amended on 22nd May in the Senate, calls for a complete repeal of Section 107 of the Corporations Code, which prevents companies or persons from creating unlawful forms of money.

Previously, the bill altered Section 107 to recognize bitcoin as "lawful money", with a provision stating that individuals or businesses were not required to accept digital currencies as a form of payment. The bill still allows for the free use of bitcoin in the state, but the broader repeal opens the door for a variety of digital currencies.

Notably, the proposed law would not designate digital currencies as legal tender, rather as lawful money that may be accepted for goods and services.

Legal tender, by comparison, constitutes a federally sanctioned currency that can unquestionably be used to settle debts or obligations.

*David J Utzke, PhD, MAFF, CFE, CFI, CESA*

Agent, International Technical Specialist,  
Offshore Compliance, IIC, LB&I  
Phone: 626.927.1237  
Fax: 855.702.8175

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#); [Moriarty John P](#)  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Wednesday, March 12, 2014 9:23:09 AM

---

We're going to Erik's office for this 10am meeting.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Corwin Erik H  
**Sent:** Wednesday, March 12, 2014 9:22 AM  
**To:** Keyso Jr. Andrew J  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Yes, that would be great.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Wednesday, March 12, 2014 9:21 AM  
**To:** Corwin Erik H  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Erik, we'll come down for this if you'd like us to.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov) [<mailto:Emily.McMahon@treasury.gov>]  
**Sent:** Wednesday, March 12, 2014 8:32 AM  
**To:** Corwin Erik H; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Ok, I will call you at 10am.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]  
**Sent:** Wednesday, March 12, 2014 12:24 AM Eastern Standard Time  
**To:** McMahon, Emily S.; Zarlenga, Lisa  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Hodes, Rochelle; Walli, Karl; Mazur, Mark  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Sorry - I meant I can do 10:00-10:30

-----  
Sent using BlackBerry



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**From:** Corwin Erik H  
**Sent:** Wednesday, March 12, 2014 12:22 AM  
**To:** 'Emily.McMahon@treasury.gov' <[Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov)>; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; 'Rochelle.Hodes@treasury.gov' <[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)>; 'Karl.Walli@treasury.gov' <[Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)>; 'Mark.Mazur@treasury.gov' <[Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)>  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

I can do 10:30

-----  
Sent using BlackBerry

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**From:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov) [<mailto:Emily.McMahon@treasury.gov>]  
**Sent:** Tuesday, March 11, 2014 07:37 PM  
**To:** Corwin Erik H; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) <[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)>; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov) <[Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)>; [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov) <[Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)>  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

I am not sure that Thursday is realistic. We will have some proposed revisions which we can send tomorrow for review, though it probably makes sense to discuss as well. Mostly they relate to the first page and are aimed at coordinating this notice more precisely with the FinCen guidance that is already out there. However, we also have issues with a couple of the questions. Could we (or at least some of us) plan to talk at 10:00am tomorrow? We have the ABA coming in at 10:30am but I think 30 mins should be enough.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irs.counsel.treas.gov>]  
**Sent:** Tuesday, March 11, 2014 05:56 PM Eastern Standard Time  
**To:** McMahon, Emily S.; Zarlenga, Lisa  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Thought I would check in to see where your thinking is on this. Are we still driving for a Thursday release? I'm wide open tomorrow morning if a discussion would be helpful.

---

**From:** Corwin Erik H  
**Sent:** Friday, March 07, 2014 5:45 PM  
**To:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Corwin Erik H; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J  
**Subject:** Bitcoin Notice 3-7-14 4PM.docx

Emily and Lisa:

Attached is a revised draft of the Bitcoin notice. The draft includes an

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Per the email I received earlier

from Emily, we understand that some tinkering is going on on your end regarding the scope language, and I am happy to consider that also. However, we thought it useful to get you the draft in its current form so that we could all review and go through any issues on Monday in anticipation of a Thursday release.

Have a great weekend.

Best regards,

Erik

<< File: Bitcoin Notice 3-7-14 4PM.docx >>

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#); [Stahl Raymond J](#); [Erwin Mark E](#); [Jensen Steven D](#); [Hall Charles A](#); [Griffin Adrienne E](#); [Prasad Girish](#); [Dubert Alexa T](#); [Blanchard William E](#); [Cook Janine](#); [Shepherd Neil D](#); [Burns Gregory](#); [Ronk Alice L](#); [Berman Samuel](#)  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Wednesday, March 12, 2014 4:55:43 PM  
**Attachments:** [Bitcoin Notice 3-7-14 4PM rlh ESM Edits \(KW additional edits\).docx](#)

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This is the latest draft of the virtual currency notice with Treasury edits. Please let me know at your earliest convenience if you have any comments, suggested revisions etc. Negative replies requested. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

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**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]  
**Sent:** Wednesday, March 12, 2014 4:32 PM  
**To:** Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); Zarlenga Lisa (OTP)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Thursday, March 20, 2014 5:04:49 PM  
**Attachments:** [Notice 2014-21 CLEAN.docx](#)

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FYI. Erik has already cleared the signature package and I'll take it to CIR shortly.

---

**From:** Fahey Douglas A  
**Sent:** Thursday, March 20, 2014 3:13 PM  
**To:** 'Rochelle.Hodes@treasury.gov'; Corwin Erik H; Emily.McMahon@treasury.gov; Mark.Mazur@treasury.gov  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; Karl.Walli@treasury.gov; Zarlenga Lisa (OTP); Stahl Raymond J; Corwin Erik H  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Here is a clean copy of the notice, Notice 2014-21. The only remaining edit that is needed is to insert the date of release in Q-16 when we have it.

Erik, I will bring a signature package to you shortly.

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Thursday, March 20, 2014 3:00 PM  
**To:** Corwin Erik H; [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Zarlenga Lisa (OTP); Stahl Raymond J; Corwin Erik H  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

We are ok with these changes. Thanks.

Note also that I've started going through the press materials that will accompany the release of the Notice. Once we have our comments on those we will send them along to you. Our press folks inform us that the press information will have to be coordinated with the WH so that will impact timing for the release of the notice.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]  
**Sent:** Thursday, March 20, 2014 11:32 AM  
**To:** McMahon, Emily S.; Mazur, Mark; Hodes, Rochelle  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; Zarlenga, Lisa; Stahl, Raymond J; Corwin, Erik H  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Looks like we're good on this. One nit was observed. Specifically, in the sentence below from the BACKGROUND section, the phrase

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**From:** Corwin Erik H  
**Sent:** Thursday, March 20, 2014 10:42 AM  
**To:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Zarlenga Lisa (OTP); Corwin Erik H  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Looks OK to me too, but just checking on one point with Andy to make sure all are on board.

---

**From:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov) [<mailto:Emily.McMahon@treasury.gov>]  
**Sent:** Thursday, March 20, 2014 10:41 AM  
**To:** [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Zarlenga Lisa (OTP)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

I am fine with this. I think we just need IRS input. Thanks.

---

**From:** Mazur, Mark  
**Sent:** Thursday, March 20, 2014 10:36 AM  
**To:** Hodes, Rochelle; Corwin, Erik H  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; McMahon, Emily S.; Zarlenga, Lisa  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Rochelle,  
If Emily is OK, then I am OK with this.  
Mark

---

**From:** Hodes, Rochelle  
**Sent:** Thursday, March 20, 2014 8:18 AM  
**To:** Corwin, Erik H  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; Mazur, Mark; McMahon, Emily S.; Zarlenga, Lisa

**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Attached please find a clean and compare copy of the notice. The two main changes are from TFI.



(b)(5)

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**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]

**Sent:** Friday, March 14, 2014 03:23 PM

**To:** Hodes, Rochelle

**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; Mazur, Mark; McMahon, Emily S.; Zarlenga, Lisa; Corwin, Erik H; Wilkins, William J

**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached is a revised version of the Bitcoin notice marked against the version Rochelle sent Wednesday. I put in a few explanatory comment bubbles to flesh out some of the thinking that has gone on on a couple of the points in our building. Other revisions are as noted to Emily or are technical/style nits.

Glad to discuss at your convenience.

Erik

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]

**Sent:** Wednesday, March 12, 2014 4:32 PM

**To:** Corwin Erik H

**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); Zarlenga Lisa (OTP)

**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]

**Sent:** Wednesday, March 12, 2014 12:24 AM

**To:** McMahon, Emily S.; Zarlenga, Lisa

**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Hodes, Rochelle; Walli, Karl; Mazur, Mark

**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Sorry - I meant I can do 10:00-10:30

-----  
Sent using BlackBerry

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Thursday, March 20, 2014 10:57:50 AM

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FYI. May go out this afternoon.

---

**From:** Corwin Erik H  
**Sent:** Thursday, March 20, 2014 10:46 AM  
**To:** Fahey Douglas A; Keyso Jr. Andrew J; Milnes-Vasquez Marie C  
**Cc:** Musher Steven A; Erwin Mark E; Stahl Raymond J; Rollinson Marjorie; Corwin Erik H  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Can we just get a quick read from Mark/Ray if they see a showstopper here?

---

**From:** Fahey Douglas A  
**Sent:** Thursday, March 20, 2014 10:43 AM  
**To:** Corwin Erik H; Keyso Jr. Andrew J; Milnes-Vasquez Marie C  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Erik, I think the

[REDACTED]

(b)(5)

(b)(5)

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**From:** Corwin Erik H  
**Sent:** Thursday, March 20, 2014 10:27 AM  
**To:** Keyso Jr. Andrew J; Milnes-Vasquez Marie C  
**Cc:** Fahey Douglas A; Corwin Erik H  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

On a quick look, I personally don't see anything troubling here and would be OK clearing today. Remind me – did we have any concern about the

[REDACTED]

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(b)(5)

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**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, March 20, 2014 9:35 AM  
**To:** Corwin Erik H; Milnes-Vasquez Marie C  
**Cc:** Fahey Douglas A  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx

Erik, Rochelle Hodes called me about this today to emphasize that [REDACTED]

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[REDACTED] he also urges that we try to get this cleared today, if possible. Doug and I are available if you'd like to discuss.

(b)(5)

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Thursday, March 20, 2014 8:18 AM  
**To:** Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; Karl.Walli@treasury.gov; Mark.Mazur@treasury.gov; Emily.McMahon@treasury.gov; Zarlenga Lisa (OTP)  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Attached please find a clean and compare copy of the notice. The two main changes are from TFI

(b)(5)

---

**From:** Corwin Erik H [mailto:Erik.H.Corwin@irscounsel.treas.gov]  
**Sent:** Friday, March 14, 2014 03:23 PM  
**To:** Hodes, Rochelle  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; Mazur, Mark; McMahon, Emily S.; Zarlenga, Lisa; Corwin, Erik H; Wilkins, William J  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached is a revised version of the Bitcoin notice marked against the version Rochelle sent Wednesday. I put in a few explanatory comment bubbles to flesh out some of the thinking that has gone on on a couple of the points in our building. Other revisions are as noted to Emily or are technical/style nits.

Glad to discuss at your convenience.

Erik

---

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Wednesday, March 12, 2014 4:32 PM  
**To:** Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; Karl.Walli@treasury.gov; Mark.Mazur@treasury.gov; Emily.McMahon@treasury.gov;



**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Agui Keith A](#)  
**Subject:** FW: Bitcoin Notice  
**Date:** Monday, February 03, 2014 3:09:38 PM  
**Attachments:** [Bitcoin Notice \(TEGE Comments\).docx](#)

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Fyi...

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**From:** Shepherd Neil D  
**Sent:** Monday, February 03, 2014 2:56 PM  
**To:** Welsh Donna J  
**Cc:** Cook Janine; Camillo Lynne A; Shepherd Neil D  
**Subject:** Bitcoin Notice

Greetings, Donna. The attached draft reflects Janine's and Neil's comments regarding the Bitcoin notice. Stephen and Greg may have additional comments from TEGE.

Many thanks.

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** FW: Bitcoin Notice  
**Date:** Monday, September 08, 2014 5:52:23 PM

---

Keith, Please respond to requestor accordingly. Thanks.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Monday, September 08, 2014 5:51 PM  
**To:** Welsh Donna J  
**Cc:** Aqui Keith A  
**Subject:** RE: Bitcoin Notice

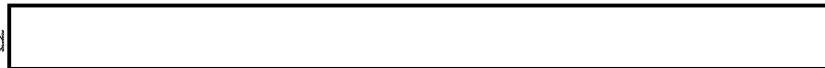
Yes, thanks.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** Welsh Donna J  
**Sent:** Monday, September 08, 2014 5:50 PM  
**To:** Keyso Jr. Andrew J  
**Cc:** Aqui Keith A  
**Subject:** FW: Bitcoin Notice

Hi Andy, I think we should



(b)(5)

---

**From:** Aqui Keith A  
**Sent:** Thursday, September 04, 2014 5:00 PM  
**To:** Welsh Donna J  
**Cc:** Fahey Douglas A; Keyso Jr. Andrew J  
**Subject:** Bitcoin Notice

In response to the above, Jackson Mueller of the Milken Institute called to request participation of the IRS at an event.

He may be reached at [JM Mueller@Milkeninstitute.org](mailto:JM Mueller@Milkeninstitute.org).

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#)  
**Subject:** FW: bitcoin paragraph  
**Date:** Thursday, November 21, 2013 4:42:58 PM

---

Good grief! This is from a WSJ reporter. [REDACTED]

(b)(5)

(b)(5)

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Friedland Bruce I [mailto:[Bruce.I.Friedland@irs.gov](mailto:Bruce.I.Friedland@irs.gov)]  
**Sent:** Thursday, November 21, 2013 3:35 PM  
**To:** Fahey Douglas A  
**Subject:** FW: bitcoin paragraph

Doug,

Do you have any concerns with this paragraph?

Reporter is on deadline today. Will try calling shortly to discuss

Bruce  
202-317-6221

---

**Subject:** bitcoin paragraph

(b)(5)

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: Bitcoin pricing  
**Date:** Friday, February 21, 2014 11:47:42 AM  
**Attachments:** [Winkdex Forbes 2.19.14.pdf](#)

---

Even more...

---

**From:** Dunham III Frank W  
**Sent:** Friday, February 21, 2014 10:20 AM  
**To:** Welsh Donna J  
**Cc:** Shelburne Anne P  
**Subject:** Bitcoin pricing

Looks like the industry is working to resolve pricing issues, which may help limit the risk of valuation-oriented tax controversies.

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** FW: Bitcoin project  
**Date:** Tuesday, January 28, 2014 9:36:59 AM  
**Importance:** High

---

I assume we've not yet received the comments from Treasury on our bitcoin FAQs/pub guidance, correct?

Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

---

**From:** Milnes-Vasquez Marie C  
**Sent:** Tuesday, January 28, 2014 9:31 AM  
**To:** Keyso Jr. Andrew J  
**Subject:** Bitcoin project  
**Importance:** High

Hi Andy –

Erik asked for me to check in with you, to find out whether we had received any comments back from Treasury on the Bitcoin project. He will be meeting with Lisa tomorrow afternoon, and seeing any comments today would be helpful.

Thanks --

***Marie C. Milnes-Vasquez***  
***Chief, CC:Corp:Br4***

***Detailed to Deputy Chief Counsel (Technical)***  
Main IR, Rm 3034  
202-317-4105 (temp direct dial)  
[Marie.C.Milnes-Vasquez@irscounsel.treas.gov](mailto:Marie.C.Milnes-Vasquez@irscounsel.treas.gov)

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: bitcoin release draft  
**Date:** Wednesday, February 26, 2014 3:25:25 PM  
**Attachments:** [IR-2014-bitcoin.doc](#)

---

Please let me know if you have any revisions etc. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Patterson Dean J [<mailto:Dean.J.Patterson@irs.gov>]  
**Sent:** Wednesday, February 26, 2014 10:50 AM  
**To:** Fahey Douglas A; Keyso Jr. Andrew J  
**Cc:** Eldridge Michelle L; Friedland Bruce I; Smith Eric L; Burke Anthony  
**Subject:** bitcoin release draft

Doug and Andy,

Attached is a draft release for the bitcoin guidance. Please have a look.

Dean J. Patterson  
IRS National Media Relations  
202-3172-4000

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Bitcoin Timing  
**Date:** Wednesday, March 12, 2014 3:17:21 PM

---

FYI

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Corwin Erik H  
**Sent:** Wednesday, March 12, 2014 10:40 AM  
**To:** Lemons Terry L; Eldridge Michelle L  
**Cc:** Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P  
**Subject:** Bitcoin Timing

On the bitcoin notice, seems like we still have a few outstanding points with OTP, so we won't be in a position to release tomorrow and Friday doesn't seem likely either. But soon. We'll keep you posted.

Erik H. Corwin  
Deputy Chief Counsel (Technical)  
Internal Revenue Service  
Phone: 202-317-3300  
[erik.h.corwin@irsounsel.treas.gov](mailto:erik.h.corwin@irsounsel.treas.gov)



**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** FW: Bitcoin  
**Date:** Monday, August 12, 2013 9:36:18 AM

---

FYI

Doug Fahey  
202.622.7883

---

**From:** Keyso Jr. Andrew J  
**Sent:** Monday, August 12, 2013 9:02 AM  
**To:** Fahey Douglas A  
**Subject:** Bitcoin

<http://www.politico.com/story/2013/08/bitcoin-tax-haven-95420.html>



**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: bitcoin  
**Date:** Thursday, January 23, 2014 1:37:54 PM

---

FYI

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, January 23, 2014 12:59 PM  
**To:** Fahey Douglas A  
**Subject:** bitcoin

Fyi

## Treasury chief skeptical of Bitcoin ‘phenomenon’

By Rebecca Shabad

Treasury Secretary Jack Lew said Thursday the government needs more time to explore the effect of Bitcoin, a virtual currency.

“Bitcoin is a phenomenon that we need more time to discuss. I’ve talked to [JPMorgan CEO] Jamie Dimon about it, and he and I both share some incredulity about the whole phenomenon,” Lew said on CNBC Thursday during his visit to the World Economic Forum in Davos, Switzerland.

Bitcoins are strictly an online currency, and its owners are largely anonymous. No central bank regulates or backs them. They can be used to purchase goods and services, and can be traded for cash.

Lew’s skepticism comes just a few months after a Treasury Department official told a Senate panel that Bitcoin is a legitimate currency and should not be banned.

In the interview Thursday, Lew warned the government must ensure the currency is not used to help terrorists.

“I think from the government’s perspective, we have to make sure it does not become an avenue to funding illegal activities or funding malign purposes like terrorist activities,” he said. “It is an anonymous form of transaction and it offers places for people to hide.”

The Treasury Department in the meantime, Lew added, has made it clear through enforcement actions that they will make sure existing rules apply to illegal money activity online.

Read more: <http://thehill.com/blogs/on-the-money/banking-financial-institutions/196213-sec-lew-says-government-needs-more-time-to-ixzz2rFHimv5A>

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Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Meola Karla M](#); [Berman Samuel](#)  
**Cc:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** FW: Bitcoinpaper v5  
**Date:** Thursday, April 16, 2015 11:43:40 AM  
**Attachments:** [Bitcoinpaper v5.docx](#)

---

Copying Karla and Sam Berman.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** Aqui Keith A  
**Sent:** Thursday, April 16, 2015 11:13 AM  
**To:** Welsh Donna J; Keyso Jr. Andrew J; Griffin Adrienne E; Stahl Raymond J; Shepherd Neil D; Henkel Melissa A; Dubert Alexa T  
**Subject:** Bitcoinpaper v5

Los Angeles County Bar Association has provided the attached Briefing Paper to be presented at the May 4 meeting.

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Keyso Jr. Andrew J](#); [Aqui Keith A](#)  
**Subject:** FW: Bitcoins taxed as property, not currency, IRS says  
**Date:** Tuesday, March 25, 2014 7:16:06 PM

---

Poor miners: I am glad we put the Q&A in.

---

**From:** Eblen Mark D  
**Sent:** Tuesday, March 25, 2014 6:36 PM  
**To:** Utzke David J; Schenck Carolyn A; Berman Samuel; Welsh Donna J; Carter Kareem A; Karavitis Roula; Nicholls Lori J; Peraza Lilia R; Young Eric M; Skutley Michael R; McDougal John C; Edelman Edward M; Kiger Cheryl R  
**Subject:** Bitcoins taxed as property, not currency, IRS says

<http://www.reuters.com/article/2014/03/25/us-bitcoin-irs-idUSBREA2O1LR20140325>

Mark D. Eblen  
Senior Counsel  
Louisville, KY  
(502) 566-2945

*Please visit the ["My SB/SE Counsel"](#) website for directories, technical articles, and more.*

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: Bitcoins  
**Date:** Tuesday, August 20, 2013 12:03:00 PM  
**Attachments:** [New York State.pdf](#)

---

Fyi...

---

**From:** Shepherd Neil D  
**Sent:** Tuesday, August 13, 2013 3:22 PM  
**To:** Welsh Donna J  
**Cc:** Camillo Lynne A; Carlino Paul J; Richards John B; Burns Gregory; Shepherd Neil D  
**Subject:** Bitcoins

The New York State Department of Financial Services "has launched an inquiry into the appropriate regulatory guidelines that it should put in place for virtual currencies." The stated concern is that "virtual currency exchangers may be engaging in money transmission as defined in New York law." It sounds much like the concerns behind the FinCEN guidance.

**From:** [Montemurro Michael J](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** FW: Bitcoins  
**Date:** Thursday, July 18, 2013 11:28:52 AM

---

Keith — fyi.

Michael J. Montemurro  
CC:ITA:4 — ' : 202.622.7101  
Rm. 4243-W (enter through Rm. 4241)  
[michael.j.montemurro@irscounsel.treas.gov](mailto:michael.j.montemurro@irscounsel.treas.gov)

---

**From:** Montemurro Michael J  
**Sent:** Thursday, July 18, 2013 7:06 AM  
**To:** Welsh Donna J  
**Subject:** Bitcoins

Donna — Section 83 generally provides that if property is transferred in connection with services, then the excess of the fair market value of the property at the first time the rights in the property are transferable over the amount paid for the property are includable in gross income in the first year the rights in the property are transferable. See § 83(a). Section 1.83-3(d) and (e) define property and transferability of property.

CC:TEGE:EB:EC has jurisdiction over § 83. Cate Fernandez in the branch chief.

Michael J. Montemurro  
CC:ITA:4 — ' : 202.622.7101  
Rm. 4243-W (enter through Rm. 4241)  
[michael.j.montemurro@irscounsel.treas.gov](mailto:michael.j.montemurro@irscounsel.treas.gov)

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Corwin Erik H](#); [Milnes-Vasquez Marie C](#)  
**Cc:** [Moriarty John P](#)  
**Subject:** FW: Check in on Virtual Currencies Tax Guidance  
**Date:** Wednesday, March 05, 2014 6:22:35 PM

---

See below.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Keyso Jr. Andrew J  
**Sent:** Wednesday, March 05, 2014 6:22 PM  
**To:** Lemons Terry L; [Elizabeth.Bourassa@treasury.gov](mailto:Elizabeth.Bourassa@treasury.gov); Eldridge Michelle L; Patterson Dean J; Welsh Donna J; Fahey Douglas A; [Victoria.Esser@treasury.gov](mailto:Victoria.Esser@treasury.gov); [Erin.Donar@treasury.gov](mailto:Erin.Donar@treasury.gov); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); Zarlenga Lisa (OTP); Smith Eric L; Friedland Bruce I  
**Subject:** RE: Check in on Virtual Currencies Tax Guidance

We are working to resolve two remaining technical issues with our Office of Tax Policy colleagues and we hope to finally resolve those tomorrow morning, at which point we will begin the clearance process. At this point, I can't predict when this will be approved by the Commissioner without knowing the outcome of our resolution of those two remaining issues. But I will update this group at midday tomorrow as to where we stand on clearances. Thanks for your patience.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Lemons Terry L [<mailto:Terry.L.Lemons@irs.gov>]  
**Sent:** Wednesday, March 05, 2014 6:11 PM  
**To:** [Elizabeth.Bourassa@treasury.gov](mailto:Elizabeth.Bourassa@treasury.gov); Eldridge Michelle L; Patterson Dean J; Keyso Jr. Andrew J; Welsh Donna J; Fahey Douglas A; [Victoria.Esser@treasury.gov](mailto:Victoria.Esser@treasury.gov); [Erin.Donar@treasury.gov](mailto:Erin.Donar@treasury.gov); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); Zarlenga Lisa (OTP); Smith Eric L; Friedland Bruce I  
**Subject:** RE: Check in on Virtual Currencies Tax Guidance

Will let our Counsel guys address guidance status. The news release has cleared key places here, including the Commissioner, and is good to go.

Thought here was that we would try get this to one or two select reporters in advance of the formal drop, say around noon Friday. Better chance of playing this straight with them. Really prefer to avoid pushing this to 2 p.m. on a Friday. Also gives us a time to address any misperceptions in case there is confusion about the guidance.

---

**From:** [Elizabeth.Bourassa@treasury.gov](mailto:Elizabeth.Bourassa@treasury.gov) [<mailto:Elizabeth.Bourassa@treasury.gov>]  
**Sent:** Wednesday, March 05, 2014 5:58 PM  
**To:** Eldridge Michelle L; Patterson Dean J; Lemons Terry L; Keyso Jr. Andrew J; Welsh Donna J; Fahey

Douglas A; [Victoria.Esser@treasury.gov](mailto:Victoria.Esser@treasury.gov); [Erin.Donar@treasury.gov](mailto:Erin.Donar@treasury.gov); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov);  
Zarlenga Lisa

**Subject:** Check in on Virtual Currencies Tax Guidance

All,

We wanted to get Tsy and IRS policy/comms teams all looped on one email.

IRS policy – can you confirm where we stand on clearances? When do you expect to have this fully approved by Koskinen?

IRS comms – if this is cleared in time, we would like to send this out around 2pm Friday (instead of 10am). Please let us know if you have any concerns.

I've attached the latest guidance that Tsy sent to IRS last week and the related press release.

Thanks,  
Betsy

Public Affairs | U.S. Treasury Department | o. 202-622-6490



**From:** [Welsh Donna J](#)  
**To:** [Hall Charles A](#); [Cottrell Mark E](#)  
**Cc:** [Fahey Douglas A](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Coinbase meeting  
**Date:** Friday, April 04, 2014 4:31:06 PM  
**Attachments:** [Coinbase Communications.docx](#)

---

Hi Chuck and Mark, ITA thinks that Counsel should meet with Coinbase. Is PA agreeable to meet with Coinbase next Tues?

-----Original Message-----

From: Carter Kareem A [<mailto:Kareem.Carter@ci.irs.gov>]  
Sent: Thursday, April 03, 2014 6:42 PM  
To: Hall Charles A; Cottrell Mark E  
Cc: Fahey Douglas A; Aqui Keith A; Welsh Donna J; Lunger Richard - CT; Needle Martin E - CT; Tafur John R  
Subject: Coinbase meeting

Charles and Mark

Global Financial Crimes Director, John Tafur and I spoke with the following members of Coinbase (Martine Niejadik, Chief Computing Officer; Fred Ehrsam, Co-Founder; and Juan Suarez, Legal Counsel) earlier today.

Coinbase provided some general concerns about the recent guidance IRS released in March and is seeking clarification on certain issues. The attached document generally describes those concerns.

Furthermore, Coinbase will be in Washington, D.C. on Tuesday, April 8, 2014 to attend previously scheduled meetings but would like to stop by IRS to discuss some of the issues listed on the attachment. We have tentatively agreed to meet with Coinbase on Tuesday at 1:00 p.m. here at IRS pending your availability. I would like to confirm or cancel this meeting by close of business tomorrow April 4, 2014.

Again, this is a great opportunity to gather knowledge and insight from what appears to be one of the more reputable bitcoin entities in the industry. If you have any questions please feel free to contact me on the cell number listed below.

Kind Regards,

Kareem Carter

Senior Analyst, Global Financial Crimes

IRS Criminal Investigation

1111 Constitution Ave NW Rm 2516

Washington, DC 20224

202-604-7126 cell

**From:** [Aqui Keith A](#)  
**To:** [Stahl Raymond J](#)  
**Cc:** [Welsh Donna J](#); [Fahey Douglas A](#)  
**Subject:** FW: Comments on Notice 2014-21  
**Date:** Thursday, September 25, 2014 12:27:00 PM  
**Attachments:** [TSCPA \(Carol Warley\).pdf](#)

---

FYI.

---

**From:** Johnson LaTashia M  
**Sent:** Wednesday, September 24, 2014 1:07 PM  
**To:** Aqui Keith A  
**Cc:** Franks Martin  
**Subject:** Comments on Notice 2014-21

**From:** [Fahey Douglas A](#)  
**To:** [Dubert Alexa T](#); [Rogers John W III](#); [Blanchard William E](#)  
**Cc:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** FW: Comments on the Bitcoin Notice  
**Date:** Friday, February 21, 2014 12:44:22 PM  
**Attachments:** [Green Circulation - Bitcoin Notice 2-14-14 - FIP Comments submitted on 2-21-2014.docx](#)  
[Green Circulation - Bitcoin Notice 2-14-14 - FIP Comments submitted on 2-21-2014 ITA.docx](#)

---

See attached for responses to your comments.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Welsh Donna J  
**Sent:** Friday, February 21, 2014 11:46 AM  
**To:** Fahey Douglas A  
**Subject:** FW: Comments on the Bitcoin Notice

More...

---

**From:** Dubert Alexa T  
**Sent:** Friday, February 21, 2014 9:15 AM  
**To:** Welsh Donna J; Aqui Keith A  
**Cc:** Blanchard William E; Rogers John W III  
**Subject:** Comments on the Bitcoin Notice

Donna & Keith

Attached are FIP's comments on the green circulation of the bitcoin notice.

Alexa

**From:** [Aqui Keith A](#)  
**To:** [Keyso Jr. Andrew J](#)  
**Cc:** [Welsh Donna J](#); [Fahey Douglas A](#)  
**Subject:** FW: Counsel's Draft FAQs on Bitcoins  
**Date:** Tuesday, January 28, 2014 10:54:52 AM  
**Attachments:** [Bitcoin COMPARE.docx](#)  
[Bitcoin Notice 1-27-14.docx](#)

---

Andy, we received the attached today.

Both Donna and Doug are out.

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]  
**Sent:** Tuesday, January 28, 2014 9:32 AM  
**To:** Welsh Donna J  
**Cc:** Ronk Alice L; Fahey Douglas A; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Counsel's Draft FAQs on Bitcoins

Hello all. Attached is the Bitcoin guidance (now in the form of a Notice as I discussed with Donna and Doug) with Treasury's comments. These comments include the views of TLC, ITC, and BTC in the Office of the Assistant Secretary Tax Policy, as well as coordinated comments from the Office of the Assistance Secretary for Terrorism and Financial Intelligence, which includes FinCEN. Please let me know if you want to discuss further. For your convenience I included a compare version from the 11/13 draft and a clean version.

---

**From:** Welsh Donna J [mailto:[Donna.J.Welsh@irs.counsel.treas.gov](mailto:Donna.J.Welsh@irs.counsel.treas.gov)]  
**Sent:** Wednesday, November 13, 2013 4:54 PM  
**To:** Hodes, Rochelle  
**Cc:** Ronk Alice L; Fahey, Douglas A; Aqui, Keith A; Welsh, Donna J  
**Subject:** Counsel's Draft FAQs on Bitcoins

Hi Rochelle, Here is Counsel's draft FAQs on Bitcoins/Virtual Currency transactions. Please let us know if you would like to discuss.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Daily Briefing Book items from Executive Secretariat Correspondence Office for January 30, 2014  
**Date:** Friday, January 31, 2014 9:54:56 AM

---

Just FYI.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Keyso Jr. Andrew J  
**Sent:** Friday, January 31, 2014 9:47 AM  
**To:** Fahey Douglas A  
**Subject:** FW: Daily Briefing Book items from Executive Secretariat Correspondence Office for January 30, 2014

FYI. Nothing to do at this time.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Keyso Jr. Andrew J  
**Sent:** Friday, January 31, 2014 9:47 AM  
**To:** Philcox Crystal ([Crystal.Philcox@irs.gov](mailto:Crystal.Philcox@irs.gov))  
**Subject:** FW: Daily Briefing Book items from Executive Secretariat Correspondence Office for January 30, 2014

Crystal, we have a published guidance project in process with Treasury that will answer some basic income tax questions about Bitcoin and other virtual currencies. Nothing to do with money laundering, tax evasion, or sales tax, however. Feel free to give me a call if you want more background on the guidance. --Andy

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Wilkins William J  
**Sent:** Friday, January 31, 2014 6:17 AM  
**To:** Philcox Crystal; Sterner Christopher B; Keyso Jr. Andrew J; Corwin Erik H  
**Subject:** Re: Daily Briefing Book items from Executive Secretariat Correspondence Office for January 30, 2014

Not aware of anything on the state sales tax or criminal activity topics. Those are probably out of scope for IRS. We have thought about income tax aspects and believe it's a barter analysis

---

**From:** Philcox Crystal [<mailto:Crystal.Philcox@irs.gov>]  
**Sent:** Thursday, January 30, 2014 09:16 PM

**To:** Wilkins William J; Sterner Christopher B

**Subject:** FW: Daily Briefing Book items from Executive Secretariat Correspondence Office for January 30, 2014

Bill and Chris, regarding the letter we received today, have you all done any work on bit coins? Have you had conversations with Treasury on this topic? Any initial positioning on this?



(b)(5)

*Crystal Philcox  
Internal Revenue Service  
Acting Chief of Staff  
(desk) 202-317-4072  
(mobile) 202-320-2788*

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**To:** [Welsh Donna J](#)  
**Cc:** [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)  
**Subject:** FW: Daily Virtual Currency News Digest E-mail  
**Date:** Thursday, February 05, 2015 11:03:28 AM  
**Attachments:** [revised\\_vc\\_regulation.pdf](#)  
[CRS Report R43339 Bitcoin Qu .pdf](#)

---

Two attached Bitcoin related items folks may find interesting.



**From:** [Welsh Donna J](#)  
**To:** [Berman Samuel](#)  
**Cc:** [Baumgarten Peter J](#); [Welsh Donna J](#)  
**Subject:** FW: Development of examples for IRS.gov in response to GAO audit  
**Date:** Tuesday, July 16, 2013 10:57:11 AM

---

Hi Sam, Some of the questions may not be answerable under existing guidance, and any answers that go beyond that would have to be cleared with our Associate and probably above. Having said that, I think the write up is a good starting point for the Associate Offices to work from. So go ahead and submit to TSS 4510 and ask that ITA have the prime and that assistances be opened for PA, FIP, and INTL.

Thanks,  
Donna

---

**From:** Berman Samuel  
**Sent:** Monday, July 15, 2013 9:44 AM  
**To:** Welsh Donna J  
**Subject:** FW: Development of examples for IRS.gov in response to GAO audit

Donna,

Before I send this to TSS4510, could you let me know if this is something IT&A would be willing to do (answer the questions in the attached document concerning virtual currency transactions using existing guidance)?

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Monday, July 15, 2013 9:29 AM  
**To:** Berman Samuel; Larsen Eric R  
**Cc:** Ronk Alice L; Powell-Stringer Portia E; Taylor James E  
**Subject:** FW: Development of examples for IRS.gov in response to GAO audit

Hi all,

**Eric:** These look good. Thanks!

**Sam:** Will you answer or route to the appropriate people in Chief Counsel to answer and/or provide additional comments?

Thanks.

-Alice

P.S.I am on leave most of this week but will be checking emails periodically throughout the day.

---

**From:** Larsen Eric R  
**Sent:** Monday, July 15, 2013 9:06 AM  
**To:** Ronk Alice L  
**Cc:** Berman Samuel; Powell-Stringer Portia E; Taylor James E  
**Subject:** Development of examples for IRS.gov in response to GAO audit

Hi Alice,

Attached are the questions/examples that I came up with that I believe cover the issues raised by the GAO and by the Taxpayer Advocate. The questions are framed as questions from taxpayers that cover the areas of guidance from the perspective of taxpayers that accept bitcoins as payment, speculators, a bitcoin mining business, and bitcoin exchanges. Also, for game currencies from the perspective of the online gamer and the operator of the virtual world.

I used "bitcoins" or "litecoins" in the many of the questions that will be later used as examples. Those specific VCs can be readily changed to another term or to "virtual currency" later on.

I put down suggested answers on several of the questions. but ended up deleting my suggested answers

[REDACTED]

(b)(5)

(b)(5)

I am in all today and the rest of the week.

Eric

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Baumgarten Peter J](#); [Welsh Donna J](#)  
**Subject:** FW: Development of examples for IRS.gov in response to GAO audit  
**Date:** Monday, July 15, 2013 3:55:55 PM  
**Attachments:** [Questions about Virtual Currencies.doc](#)

---

Hi Doug, These questions seem a bit too specific and don't know if they can be answered using existing guidance. I suggest that I point this out to Sam, and having said that, he should send it to TSS4510 for opening Prime to ITA and assistance to PA,FIP, and INTL. We could use the questions presented as a starting point for discussions with the other Associate Offices.

Pls let me know if you agree.

thx.

---

**From:** Berman Samuel  
**Sent:** Monday, July 15, 2013 9:44 AM  
**To:** Welsh Donna J  
**Subject:** FW: Development of examples for IRS.gov in response to GAO audit

Donna,

Before I send this to TSS4510, could you let me know if this is something IT&A would be willing to do (answer the questions in the attached document concerning virtual currency transactions using existing guidance)?

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Monday, July 15, 2013 9:29 AM  
**To:** Berman Samuel; Larsen Eric R  
**Cc:** Ronk Alice L; Powell-Stringer Portia E; Taylor James E  
**Subject:** FW: Development of examples for IRS.gov in response to GAO audit

Hi all,

**Eric:** These look good. Thanks!

**Sam:** Will you answer or route to the appropriate people in Chief Counsel to answer and/or provide additional comments?

Thanks.

-Alice

P.S.I am on leave most of this week but will be checking emails periodically throughout the day.

---

**From:** Larsen Eric R  
**Sent:** Monday, July 15, 2013 9:06 AM  
**To:** Ronk Alice L

**Cc:** Berman Samuel; Powell-Stringer Portia E; Taylor James E  
**Subject:** Development of examples for IRS.gov in response to GAO audit

Hi Alice,

Attached are the questions/examples that I came up with that I believe cover the issues raised by the GAO and by the Taxpayer Advocate. The questions are framed as questions from taxpayers that cover the areas of guidance from the perspective of taxpayers that accept bitcoins as payment, speculators, a bitcoin mining business, and bitcoin exchanges. Also, for game currencies from the perspective of the online gamer and the operator of the virtual world.

I used "bitcoins" or "litecoins" in the many of the questions that will be later used as examples. Those specific VCs can be readily changed to another term or to "virtual currency" later on.

I put down suggested answers on several of the questions, but ended up deleting

[REDACTED]

(b)(5)

(b)(5)

I am in all today and the rest of the week.

Eric

**From:** Welsh Donna J on behalf of Cook Janine  
**To:** Aqui Keith A; Tackney Stephen B; Richards John B; Shepherd Neil D; Welsh Donna J; Fahey Douglas A; Warren Brinton T  
**Subject:** FW: discuss bitcoin FAQs

---

Hi Keith, There's a meeting tomorrow with TEGE on Bitcoins. Thanks.

-----Original Appointment-----

From: Cook Janine

Sent: Tuesday, September 17, 2013 5:07 PM

To: Cook Janine; Tackney Stephen B; Richards John B; Shepherd Neil D; Welsh Donna J; Fahey Douglas A; Warren Brinton T

Subject: discuss bitcoin FAQs

When: Wednesday, September 18, 2013 11:00 AM-12:00 PM (GMT-05:00) Eastern Time (US & Canada).

Where: room 4308

Does this time work to discuss? We can either meet in my office or in IT&A. just let us know.

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** FW: Draft 1st cut on Virtual Transactions and Currencies  
**Date:** Wednesday, December 18, 2013 2:06:27 PM  
**Importance:** High

---

Keith and Donna – Here is my suggested reply to Bruce Friedland in Media Relations on a paragraph he drafted to give to a Wall Street Journal reporter. Let me know of any changes, concerns, etc. I need to send this to him this afternoon. Thanks.

Bruce – I'm not sure what the reference to [REDACTED] adds, and I don't think that phrase accurately describes virtual currencies. I have other suggested revisions as well. I would delete bracketed text shown in red, and insert text shown in blue.

(b)(5)

Let me know if you have any questions.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Friedland Bruce I [mailto:[Bruce.I.Friedland@irs.gov](mailto:Bruce.I.Friedland@irs.gov)]  
**Sent:** Tuesday, December 17, 2013 3:49 PM  
**To:** Fahey Douglas A  
**Cc:** Keyso Jr. Andrew J  
**Subject:** Draft 1st cut on Virtual Transactions and Currencies

Doug,

Here's my very tentative 1<sup>st</sup> draft. I have the link I found to virtual economies page too.

Anything we could do to strengthen it would be good...but obviously, I don't want to overcommit.

Bruce

(b)(5)

<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Tax-Consequences-of-Virtual-World-Transactions>

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: draft bitcoin talkers  
**Date:** Monday, March 10, 2014 2:02:04 PM  
**Attachments:** [Bitcoin Talkers.doc](#)

---

Andy and I are talking to them at 2:30. If you have a minute, please look over and let me know if anything jumps out at you. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Smith Eric L [<mailto:Eric.L.Smith@irs.gov>]  
**Sent:** Monday, March 10, 2014 12:48 PM  
**To:** Fahey Douglas A; Keyso Jr. Andrew J  
**Cc:** Patterson Dean J  
**Subject:** draft bitcoin talkers

Doug and Andy,

Attached are some draft talkers we came up with to use with reporters, once the notice and news release are issued. Would you guys have five or ten minutes this afternoon to have a conversation about this? Thanks.

Eric Smith  
Media Relations Specialist  
7-6227

**From:** [Berman Samuel](#)  
**To:** [Cottrell Mark E](#); [Welsh Donna J](#)  
**Cc:** [Travers Thomas J](#); [Pinsky Ronald D](#)  
**Subject:** FW: Draft Report JC 451007- GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel  
**Date:** Wednesday, April 10, 2013 2:20:45 PM  
**Attachments:** [GAO 13 516 DRAFT REPORT FOR IRS COMMENT SECURED.pdf](#)  
**Importance:** High

---

Donna and Mark,

This is the draft GAO report. Please let me know if you have any comments you would like for me to forward to Alice.

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (202) 283-0434  
Fax: (202) 283-0557

---

**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Wednesday, April 10, 2013 1:51 PM  
**To:** Berman Samuel  
**Cc:** Ronk Alice L  
**Subject:** FW: Draft Report JC 451007- GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel  
**Importance:** High

Hi Sam,  
Here's the GAO report on Virtual Economies. I'd appreciate your comments by April 16th. I'm hoping to incorporate all comments and circulate a draft response back to all the subject matter experts by 4/18 or so. That should give us time to tweak and recirculate and finalize to provide to management by April 19 or Monday April 22 and leave sufficient time for their review. Thanks!

-Alice

---

**From:** Reese-Jacobs Donna Y  
**Sent:** Wednesday, April 10, 2013 1:44 PM  
**To:** Koon Jodi L; Ronk Alice L  
**Cc:** Tracht Mark A; Larsen Eric R; Bouton Bradley J; Nobbe Joellyn M; Gillen Duane M; Flack Rosemary; Cavanaugh Kimberly A  
**Subject:** Draft Report JC 451007- GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel  
**Importance:** High

We received the report today. I am working on the template, etc. to send to you but wanted you have the report upfront. I advised Joel that we will be preparing the response with input from Counsel.



Also our response is due to GAO by May 3, 2013. Joel may need it 3-5 days before. He has not given me a due date yet.

Forwarding/Replying:

*Donna Y. Reese-Jacobs,*  
SBSE TIGTA/GAO LIAISON  
V: 202-283-1547  
F: 202-283-2385  
E: [donna.y.reese-jacobs@irs.gov](mailto:donna.y.reese-jacobs@irs.gov)

---

**From:** Koon Jodi L  
**Sent:** Tuesday, April 09, 2013 11:00 AM  
**To:** Ronk Alice L  
**Cc:** Tracht Mark A; Larsen Eric R; Bouton Bradley J; Nobbe Joellyn M; Gillen Duane M; Flack Rosemary; Cavanaugh Kimberly A; Reese-Jacobs Donna Y  
**Subject:** RE: IMPORTANT for your review-Counsel Input-Post Exit Mtg- GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel

Alice,

Thank you for formally accepting. I will make certain I forward the report to you as soon as received.

Thanks again!

Jodi Koon  
Senior Analyst, SBSE Operations Support  
TIGTA/GAO Functional Coordinator  
865-456-6562 government cell  
401 W. Peachtree St. Stop 602-D  
Atlanta, Ga. 30308

---

**From:** Ronk Alice L  
**Sent:** Tuesday, April 09, 2013 10:58 AM  
**To:** Koon Jodi L  
**Cc:** Tracht Mark A; Larsen Eric R; Bouton Bradley J; Nobbe Joellyn M; Gillen Duane M; Ronk Alice L; Flack Rosemary; Cavanaugh Kimberly A; Reese-Jacobs Donna Y

**Subject:** RE: IMPORTANT for your review-Counsel Input-Post Exit Mtg- GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel

Hi Jodi,

I believe ATTI was assigned the lead. We will take the lead in drafting a response once the report is received but will solicit input from counsel and other interested parties.

-Alice

---

**From:** Koon Jodi L

**Sent:** Tuesday, April 09, 2013 9:05 AM

**To:** Gillen Duane M; Nobbe Joellyn M; Bouton Bradley J; Larsen Eric R

**Cc:** Flack Rosemary; Cavanaugh Kimberly A; Reese-Jacobs Donna Y; Ronk Alice L

**Subject:** IMPORTANT for your review-Counsel Input-Post Exit Mtg- GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel

**Importance:** High

Good Morning,

Below is information from a post exit conference with Counsel ( attachment and email string below). Attached is the briefing document from the exit conference held March 27th and information from the post exit meeting with Counsel. At the exit meeting (3/27), it was determined Counsel would meet with GAO to further discuss issues from the exit meeting.

Joel has indicated Counsel will most likely not provide the response to the draft report, expected very soon. This is a heads up regarding this issue.

**Please confirm the function that will provide the response to the draft report asap.**

If you have questions or concerns, please let me know.

Thank you,

<< File: BOSTON-#306991-v1-451007\_\_UPDATED\_EXIT\_DOCUMENT\_FOR\_4\_4\_13\_MEETING\_WITH\_IRS.DOCX  
>> I << File: ATLANTA-#447789-v6-451007\_EXIT\_CONFERENCE\_AGENDA\_AND\_DISCUSSION\_TOPICS.DOCX >>

Jodi Koon

Senior Analyst, SBSE Operations Support

TIGTA/GAO Functional Coordinator

865-456-6562 government cell

401 W. Peachtree St. Stop 602-D

Atlanta, Ga. 30308

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**From:** Reese-Jacobs Donna Y  
**Sent:** Friday, April 05, 2013 9:35 AM  
**To:** Koon Jodi L  
**Subject:** FW: GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel

fyi

Forwarding/Replying:

*Donna Y. Reese-Jacobs,*  
SBSE TIGTA/GAO LIAISON  
V: 202-283-1547  
F: 202-283-2385  
E: [donna.y.reese-jacobs@irs.gov](mailto:donna.y.reese-jacobs@irs.gov)

---

**From:** Rutstein Joel S  
**Sent:** Thursday, April 04, 2013 3:59 PM  
**To:** Smith Molly M; Reese-Jacobs Donna Y  
**Subject:** FW: GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel

Molly and Donna, we held the meeting with Counsel today. GAO expects to deliver a draft report for comment in about two weeks. There may be a recommendation for IRS to put information on irs.gov akin to the information that IRS put up on virtual worlds. Sam Berman said he helped IRS on that project. He's going to revisit what he did, and I asked him to let SB/SE know what he was able to find. As I indicated in my message below and implicitly confirmed by Counsel today, I don't expect Counsel would initiate the response to GAO's draft report. Thanks, Joel

---

**From:** Rutstein Joel S  
**Sent:** Wednesday, April 03, 2013 7:46 AM  
**To:** Welsh Donna J; Cottrell Mark E; Griffin Adrienne E; Prasad Girish; Fahey Douglas A; Hall Charles A; McKinney Natalie; Shelburne Anne P; Blanchard William E; Camillo Lynne A; Shepherd Neil D; Baumgarten Peter J; Berman Samuel; Tuzynski Laurie; Smith Molly M; Reese-Jacobs Donna Y  
**Cc:** Goldstein Richard S; Thomas Lowell D  
**Subject:** RE: GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel

Attached, please find GAO's updated statement of facts for tomorrow's meeting. GAO points to the following "The areas we'd like to discuss on tax requirements start on page 9. The discussion on guidance starts on p.14."

I took a quick look at the discussion on guidance on page 14, and, though I don't know if this was

discussed at the exit conference last week which I was unable to attend, it seems to me that GAO might in its draft report recommend that IRS publish guidance on irs.gov. My speculation is based on the following which comes from the very end of the document:



It would be unusual for Chief Counsel to initiate the formal response to a GAO draft report. Do we know if SB/SE expects to initiate the response to GAO's draft report that would be signed by the Deputy Commissioner (SE)?

---

**From:** Rutstein Joel S

**Sent:** Tuesday, April 02, 2013 2:07 PM

**To:** Welsh Donna J; 'Arkin, Jeffrey L'; Cottrell Mark E; Griffin Adrienne E; Prasad Girish; Fahey Douglas A; Hall Charles A; McKinney Natalie; Shelburne Anne P; Blanchard William E; Camillo Lynne A; Shepherd Neil D; Baumgarten Peter J; Berman Samuel

**Cc:** Reese-Jacobs Donna Y; Novak, Danielle N

**Subject:** GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel

**When:** Thursday, April 04, 2013 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).

**Where:** 

(b)(7)(E)

This is the invitation to a post-exit conference meeting that GAO requested with IRS Chief Counsel on virtual economies and currencies (Job Code 451007). The two main things GAO wants to cover are the income and information reporting rules related to virtual economies and currencies and IRS's process for, and decisions about, issuing guidance, with a focus on web guidance. GAO is revising the statement of facts it circulated before the exit conference, and I'll circulate it to all of you upon receipt.

The list of Counsel invitees for this initial sending of this invitation was supplied by Donna Welsh of IT&A. If any of you are unable to attend at the date and time listed above, please make sure someone else from your office can attend in your stead.

Thanks, Joel

Joel S. Rutstein  
Program Manager, GAO/TIGTA Audits  
Legislation and Reports Branch  
Office of Legislative Affairs  
(202) 622-4133  
(202) 622-5247 (fax)  
Email: [joel.s.rutstein@irs.gov](mailto:joel.s.rutstein@irs.gov)  
Web: <http://irweb.irs.gov/AboutIRS/bu/cl/la/lagt/default.aspx>

**From:** [Welsh Donna J](#)  
**To:** [Shelburne Anne P](#); [Vo My V](#); [Jensen Steven D](#); [Rogers John W III](#); [Camillo Lynne A](#); [Shepherd Neil D](#); [Fahey Douglas A](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Emailing: BREAKING NEWS SEC Filing for Winklevoss Bitcoin Trust Bitcoin MagazineBitcoin Magazine.htm  
**Date:** Friday, July 19, 2013 5:45:54 PM  
**Attachments:** [BREAKING NEWS SEC Filing for Winklevoss Bitcoin Trust Bitcoin MagazineBitcoin Magazine.htm](#)

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Please find attached recent SEC filing for Bitcoin Trust.

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Fahey Douglas A](#)  
**Subject:** FW: Emailing: OpenCoin Accounting Methods Final 111013.docx  
**Date:** Wednesday, December 11, 2013 4:08:14 PM

---

Hi Keith, Alice sent a draft over last week with Examples, that we do not want to add. Are you available to be on a call with Doug and me in a little bit to discuss this with her if Doug is available?

I just got off the phone with Rochelle Hodes at Treasury and the FAQs are moving along quickly and Treasury likes the level of detail. They do not want to get into specifics of examples.

If you and Doug can be on a call to Alice today, you may call me in at [REDACTED] Otherwise, we can call her tomorrow or Friday.

(b)(6)

Thanks.

-----Original Message-----

From: Fahey Douglas A  
Sent: Wednesday, December 11, 2013 3:36 PM  
To: Welsh Donna J  
Subject: RE: Emailing: OpenCoin Accounting Methods Final 111013.docx

That's great, thanks.

Doug Fahey  
NEW PHONE 202-317-4619

-----Original Message-----

From: Welsh Donna J  
Sent: Wednesday, December 11, 2013 3:35 PM  
To: Fahey Douglas A  
Subject: RE: Emailing: OpenCoin Accounting Methods Final 111013.docx

Hi Doug, It is fine if you do not attend. I'll fill you in later. Rochelle said she would be calling me this pm with a question about the FAQs. I ask her where they are in Treasury and will give you the update.

-----Original Message-----

From: Fahey Douglas A  
Sent: Wednesday, December 11, 2013 3:14 PM  
To: Welsh Donna J  
Subject: FW: Emailing: OpenCoin Accounting Methods Final 111013.docx

Donna -- Would you be okay attending this without me? [REDACTED]

(b)(6)

[REDACTED] so I'm thinking of working at home.

(b)(6)

Based on the write-up, it looks like most of the discussion won't be on ITA matters.

Doug Fahey  
NEW PHONE 202-317-4619

-----Original Message-----

From: Dubert Alexa T  
Sent: Tuesday, December 10, 2013 4:22 PM  
To: Williams Robert B (NO); Sabin Marsha A; Welsh Donna J; Morrison Christina A; Erwin Mark E; Jensen Steven D; Rogers John W III; Stahl Raymond J; Fahey Douglas A; Aqui Keith A; Bohm Richard  
Subject: FW: Emailing: OpenCoin Accounting Methods Final 111013.docx

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: FEC Draft Advisory Opinion on Bitcoin (not issued)  
**Date:** Friday, January 24, 2014 3:42:59 PM  
**Attachments:** [1248186.pdf](#)

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More...

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**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Friday, January 24, 2014 3:33 PM  
**To:** Welsh Donna J  
**Subject:** FW: FEC Draft Advisory Opinion on Bitcoin (not issued)

Fyi—thought you might be interested

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**From:** Wallwork, Anne  
**Sent:** Friday, January 24, 2014 1:31 PM  
**To:** Hodes, Rochelle  
**Cc:** Rembrandt, Scott  
**Subject:** FW: FEC Draft Advisory Opinion on Bitcoin (not issued)

Rochelle—I thought the FEC's reasoning on valuation in the attached draft opinion, which would have approved acceptance of Bitcoin as a donation, but which was not/not issued, would be of interest from a tax perspective. The document is public, on the FEC's website.

Anne Shere Wallwork  
Senior Counselor for Strategic Policy  
Office of Terrorist Financing and Financial Crimes  
U.S. Department of the Treasury  
202 622-1226 (office); 202 577-4079 (mobile)

---

**From:** Wallwork, Anne  
**Sent:** Friday, January 24, 2014 12:18 PM  
**To:** Wallwork, Anne  
**Subject:** FEC Draft Advisory Opinion on Bitcoin (not issued)

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** FW: FIP Point Person for Bitcoin/Alternative Currency Project  
**Date:** Tuesday, July 23, 2013 12:56:49 PM

---

Fyi...another to the team.

---

**From:** Rogers John W III  
**Sent:** Tuesday, July 23, 2013 11:40 AM  
**To:** Welsh Donna J  
**Cc:** Dubert Alexa T  
**Subject:** FIP Point Person for Bitcoin/Alternative Currency Project

Donna,

Going forward, Alexa Dubert will be the FIP point person for the Bitcoin/Alternative Currency project, and I will be the reviewer. In addition to her many years of FIP experience, Alexa also has done significant international and corporate tax work. IOW, Alexa will be a great addition to this team. Could you therefore please also copy Alexa on all emails going forward? Thanks!

John Rogers



**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** FW: First ATM turns bitcoins into cash - Andrea Drusch - POLITICO.com  
**Date:** Wednesday, October 30, 2013 2:01:40 PM

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-----Original Message-----

From: Keyso Jr. Andrew J  
Sent: Wednesday, October 30, 2013 9:32 AM  
To: Fahey Douglas A; Welsh Donna J  
Subject: First ATM turns bitcoins into cash - Andrea Drusch - POLITICO.com

Interesting.

<http://www.politico.com/story/2013/10/bitcoin-atm-99087.html?hp=r6>

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#)  
**Cc:** [Elliott Nicole M](#); [Wall Judith M](#)  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Thursday, September 05, 2013 1:55:47 PM  
**Attachments:** [MSPs-guidance for IRS MSP responders-2013.doc](#)  
[MSP-Digital Currency Transactions-9-5-2013.docx](#)

---

Doug, Donna, see below. Please respond directly to Nicole. Thanks.

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]  
**Sent:** Thursday, September 05, 2013 1:49 PM  
**To:** Keyso Jr. Andrew J  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Andrew: Thank you in advance for assisting with this project. Attached you will find the MSP write-up as well as some information on the process.

I am assuming you have some experience with MSP, but it not let me know. The most urgent deadline is the 7 days. Nothing jumped out at me but please let me know if you see any factual errors. The final deadline as noted below is October 7. I would like a draft by October 2. We will loop SB in at that point as well, although obviously if there are questions you should feel free to contact Laurie. Let me know if you have questions. Thanks!

---

**From:** Drexler Kenneth J  
**Sent:** Thursday, September 05, 2013 9:58 AM  
**To:** Elliott Nicole M  
**Cc:** Wall Judith M; Tuzynski Laurie; Burger Michelle L; Scott Betty J; Phillips Lisa R; Hansberry Donna C; Patel Debbie J; Lopresti Eric R; Girinakis Rena C; Roberts Bridget; Peterson Amy; Aeschlimann Shamra D; Beale Ester D  
**Subject:** For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Nicole --

I'm attaching a draft of the NTA's write-up on the tax treatment of digital currency transactions that we plan to include in the NTA's year-end report to Congress. In accordance with our procedures, we ask that the IRS provide a written response within 30 days that will also be included in the report. Therefore, we would appreciate receiving the IRS response by **Monday, October 7**.

In accordance with the "7-day review" procedure, we ask that staff from the affected BOD/function review the write-up quickly and notify us within 7 days from the date of this email if they believe the write-up contains factual inaccuracies or information that cannot be disclosed to the public, along with an explanation of the rationale. We will consider any such requests for change and try to make a decision and notify you within 7 additional days (*i.e.*, within 14 days from the date of this email).

I am copying the BOD/function contact(s) and the TAS staff member who was principally involved in drafting this section. I'm also attaching a document that provides guidance for BOD/function staff in preparing a response. As always, please call me if you have questions or concerns.

Ken

---

Kenneth J. Drexler, Esq.  
Senior Advisor to the National Taxpayer Advocate  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

[Kenneth.J.Drexler@irs.gov](mailto:Kenneth.J.Drexler@irs.gov)

Tel: (202) 927-6372

Fax: (202) 622-7854

**From:** [Welsh Donna J](#)  
**To:** [Elliott Nicole M](#)  
**Cc:** [Fahey Douglas A](#); [Warren Brinton T](#); [Wall Judith M](#); [Feldman Janice R](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Tuesday, October 22, 2013 10:13:45 AM

---

Hi Nicole, In preparing the 30-day response to NTA's identification of Virtual Currency as a MSP, CC:PA offered the following comments below on the draft NTA Report. I am not sure if it is too late to include these comments, but am forwarding them for your consideration.

We were in the process of finalizing Counsel's 30-day response to the NTA report before the shutdown, and now we are getting back on track to have our response to you within the next few days.

Donna

---

**From:** Griffin Adrienne E  
**Sent:** Monday, October 21, 2013 2:53 PM  
**To:** Welsh Donna J; Erwin Mark E; Jensen Steven D; Hall Charles A; Prasad Girish; Cottrell Mark E  
**Cc:** Warren Brinton T; Fahey Douglas A; Aqui Keith A  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

\*\*\*\*\* [text omitted]



(b)(5)

**Adrienne Griffin**

CC:PA:Branch 1

Rm. 5141

1111 Constitution Avenue, N.W.

Washington, DC 20224

202-622-6808

---

**From:** Welsh Donna J

**Sent:** Friday, October 18, 2013 1:55 PM

**To:** Erwin Mark E; Jensen Steven D; Hall Charles A; Prasad Girish; Griffin Adrienne E

**Cc:** Warren Brinton T; Fahey Douglas A; Aqui Keith A; Welsh Donna J

**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hi there, I am just following up on how we should respond to NTA's request for guidance on FBAR. Please let us know by 10/24 what to include in the NTAMSP response. It was due 10/5.

Thanks again!



(b)(5)

**From:** [Wall Judith M](#)  
**To:** [Feldman Janice R](#); [Welsh Donna J](#); [Fahey Douglas A](#)  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Monday, September 16, 2013 3:49:46 PM

---

Judy Wall  
Special Counsel (National Taxpayer Advocate)  
Office of Chief Counsel  
CC:NTA Suite 3047  
202-622-8131  
202-622-5065 (fax)  
Effective October 2013: 202-317-4128

---

**From:** Phillips Lisa R [<mailto:lisa.r.phillips@irs.gov>]  
**Sent:** Monday, September 16, 2013 3:47 PM  
**To:** Wall Judith M; Tuzynski Laurie; Burger Michelle L; Scott Betty J; Hansberry Donna C; Lopresti Eric R; Girinakis Rena C; Roberts Bridget; Peterson Amy; Aeschlimann Shamra D; Beale Ester D  
**Cc:** Elliott Nicole M; Taylor Sanaa H; Patel Debbie J  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hello all,

Due to the fact that LB&I has an administrative role regarding the NTA MSP for Digital Currency and was only included in the MSP to have access to the information being provided by TAS, LB&I does not have any input to provide in the IRS response due October 7, 2013.

Please let us know if you any questions or concerns.

Thanks

Lisa Phillips  
Sr. Program Analyst  
Large Business and Int'l-Lb&I  
Division Planning, Oversight Reporting & Liaison (DPORL)  
Shared Support Section  
401 W Peachtree St.  
Stop 673D  
Atlanta, GA. 30308  
(404) 338-8309

---

**From:** Elliott Nicole M  
**Sent:** Wednesday, September 11, 2013 9:05 AM  
**To:** Drexler Kenneth J  
**Cc:** Wall Judith M; Tuzynski Laurie; Burger Michelle L; Scott Betty J; Phillips Lisa R; Hansberry Donna C; Patel Debbie J; Lopresti Eric R; Girinakis Rena C; Roberts Bridget; Peterson Amy; Aeschlimann Shamra D; Beale Ester D  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Ken:

We did not identify any factual inaccuracies or information that cannot be disclosed to the public.  
Thank you. Nicole

Nicole M. Elliott

(202) 927-9588

\*\*NEW PHONE: (202) 317-4074\*\*

---

**From:** Drexler Kenneth J

**Sent:** Thursday, September 05, 2013 9:58 AM

**To:** Elliott Nicole M

**Cc:** Wall Judith M; Tuzynski Laurie; Burger Michelle L; Scott Betty J; Phillips Lisa R; Hansberry Donna C; Patel Debbie J; Lopresti Eric R; Girinakis Rena C; Roberts Bridget; Peterson Amy; Aeschlimann Shamra D; Beale Ester D

**Subject:** For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Nicole --

I'm attaching a draft of the NTA's write-up on the tax treatment of digital currency transactions that we plan to include in the NTA's year-end report to Congress. In accordance with our procedures, we ask that the IRS provide a written response within 30 days that will also be included in the report. Therefore, we would appreciate receiving the IRS response by **Monday, October 7**.

In accordance with the "7-day review" procedure, we ask that staff from the affected BOD/function review the write-up quickly and notify us within 7 days from the date of this email if they believe the write-up contains factual inaccuracies or information that cannot be disclosed to the public, along with an explanation of the rationale. We will consider any such requests for change and try to make a decision and notify you within 7 additional days (*i.e.*, within 14 days from the date of this email).

I am copying the BOD/function contact(s) and the TAS staff member who was principally involved in drafting this section. I'm also attaching a document that provides guidance for BOD/function staff in preparing a response. As always, please call me if you have questions or concerns.

Ken

---

Kenneth J. Drexler, Esq.  
Senior Advisor to the National Taxpayer Advocate  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

[Kenneth.J.Drexler@irs.gov](mailto:Kenneth.J.Drexler@irs.gov)

Tel: (202) 927-6372

Fax: (202) 622-7854

**From:** [Feldman Janice R](#)  
**To:** [Welsh Donna J](#)  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Friday, September 06, 2013 5:22:58 PM  
**Attachments:** [MSPs-guidance for IRS MSP responders-2013.doc](#)  
[MSP-Digital Currency Transactions-9-5-2013.docx](#)

---

Donna, Judy just sent me the email that Andy got from Nicole – It looks like Andy forwarded to you and Judy later. Hopefully, you have what you need now. If not, please give me a call. Best regards, Janice

Janice R. Feldman  
Office of Chief Counsel  
Technical Advisor to the Special Counsel, NTA  
CC:NTA  
Telephone:(202) 622-8488  
Fax: (202) 622-5065

---

**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, September 05, 2013 1:56 PM  
**To:** Fahey Douglas A; Welsh Donna J  
**Cc:** Elliott Nicole M; Wall Judith M  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Doug, Donna, see below. Please respond directly to Nicole. Thanks.

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]  
**Sent:** Thursday, September 05, 2013 1:49 PM  
**To:** Keyso Jr. Andrew J  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Andrew: Thank you in advance for assisting with this project. Attached you will find the MSP write-up as well as some information on the process.

I am assuming you have some experience with MSP, but it not let me know. The most urgent deadline is the 7 days. Nothing jumped out at me but please let me know if you see any factual errors. The final deadline as noted below is October 7. I would like a draft by October 2. We will loop SB in at that point as well, although obviously if there are questions you should feel free to contact Laurie. Let me know if you have questions. Thanks!

---

**From:** Drexler Kenneth J  
**Sent:** Thursday, September 05, 2013 9:58 AM  
**To:** Elliott Nicole M  
**Cc:** Wall Judith M; Tuzyński Laurie; Burger Michelle L; Scott Betty J; Phillips Lisa R; Hansberry Donna C; Patel Debbie J; Lopresti Eric R; Girinakis Rena C; Roberts Bridget; Peterson Amy; Aeschlimann Shamra D; Beale Ester D  
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Ken

---

Kenneth J. Drexler, Esq.  
Senior Advisor to the National Taxpayer Advocate  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

[Kenneth.J.Drexler@irs.gov](mailto:Kenneth.J.Drexler@irs.gov)  
Tel: (202) 927-6372  
Fax: (202) 622-7854

**From:** [Fahey Douglas A](#)  
**To:** [Warren Brinton T](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Thursday, September 05, 2013 4:44:27 PM  
**Attachments:** [MSPs-guidance for IRS MSP responders-2013.doc](#)  
[MSP-Digital Currency Transactions-9-5-2013.docx](#)

---

FYI

Doug Fahey  
202.622.7883

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**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, September 05, 2013 1:56 PM  
**To:** Fahey Douglas A; Welsh Donna J  
**Cc:** Elliott Nicole M; Wall Judith M  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Doug, Donna, see below. Please respond directly to Nicole. Thanks.

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]  
**Sent:** Thursday, September 05, 2013 1:49 PM  
**To:** Keyso Jr. Andrew J  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Andrew: Thank you in advance for assisting with this project. Attached you will find the MSP write-up as well as some information on the process.

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---

**From:** Drexler Kenneth J  
**Sent:** Thursday, September 05, 2013 9:58 AM  
**To:** Elliott Nicole M  
**Cc:** Wall Judith M; Tuzynski Laurie; Burger Michelle L; Scott Betty J; Phillips Lisa R; Hansberry Donna C; Patel Debbie J; Lopresti Eric R; Girinakis Rena C; Roberts Bridget; Peterson Amy; Aeschlimann Shamra D; Beale Ester D  
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**From:** [Keyso Jr. Andrew J](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#)  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Thursday, September 05, 2013 2:03:58 PM  
**Attachments:** [MSP-Digital Currency Transactions-9-5-2013.docx](#)

---

fyi

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**From:** Tuzynski Laurie [mailto:Laurie.Tuzynski@irs.gov]  
**Sent:** Thursday, September 05, 2013 2:00 PM  
**To:** Keyso Jr. Andrew J  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hi Andrew,

I understand from Nicole that you are taking lead for the IRS on responding to this MSP. If you need anything from SB/SE, please let me know and provide me the timeframes. I have sent this out to my folks to look at to see if they see any factual issues or have any information for inclusion in the response. If so, I will forward. But from my reading, I would think it unlikely we have anything to add.

Thanks.

Laurie Tuzynski  
IRS Senior Advisor, Taxpayer Burden Reduction  
202-622-8822 DC (VMS)

---

**From:** Drexler Kenneth J  
**Sent:** Thursday, September 05, 2013 9:58 AM  
**To:** Elliott Nicole M  
**Cc:** Wall Judith M; Tuzynski Laurie; Burger Michelle L; Scott Betty J; Phillips Lisa R; Hansberry Donna C; Patel Debbie J; Lopresti Eric R; Girinakis Rena C; Roberts Bridget; Peterson Amy; Aeschlimann Shamra D; Beale Ester D  
**Subject:** For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

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I am copying the BOD/function contact(s) and the TAS staff member who was principally involved in drafting this section. I'm also attaching a document that provides guidance for BOD/function staff in preparing a response. As always, please call me if you have questions or concerns.

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Agui Keith A](#)  
**Subject:** FW: Forbes Article on Bitcoins - FYI  
**Date:** Wednesday, August 07, 2013 12:18:56 PM

---

fyi...

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**From:** Berman Samuel  
**Sent:** Wednesday, August 07, 2013 11:44 AM  
**To:** Ronk Alice L; Welsh Donna J; Mattonen Kimberly  
**Subject:** Forbes Article on Bitcoins - FYI

Alice, Donna, and Kim.

This is for your information. The article mentions the GAO report (in the second to last sentence).

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

**Forbes**  
**Bitcoin: Tax Evasion Currency**  
***By Robert W. Wood***

In IRS Takes A Bite Out Of Bitcoin, I said that Bitcoin doesn't obviate taxes. Dissenters argued that the anonymity of the upstart digital currency is all that matters. Perhaps they can evade taxes and the IRS won't catch them.

But that doesn't mean there's no income. Start with how you classify Bitcoin, although that too can be debated. Transactions in Bitcoin could be property, barter, foreign currency, or a financial instrument.

Barter seems the most logical treatment, but not everyone agrees. And investing excitement doesn't encourage calm reflection. There's plenty of excitement about Bitcoin, even by the Wall Street Journal.

In fact, if the movie were remade today, The Graduate's "One Word: Plastics" might be Bitcoin. As The People Making Real Money On Bitcoin, famously Facebooked Tyler and Cameron Winklevoss announced an SEC filing for the "Winklevoss Bitcoin Trust." It would allow institutional investors to dabble in the virtual currency without having to buy it directly from a Bitcoin Exchange.

But the allure of avoiding taxes is like a siren song. In Is Bitcoin the New Tax Haven? , Paul Caron quotes from Omri Y. Marian's paper Are Cryptocurrencies 'Super' Tax Havens?, 112 Mich. L. Rev. (2013). Mr. Marian notes the pressure facing financial institutions to hand over account holders, withhold and remit taxes. The fight against offshore evasion is raging. And although FATCA was enacted in 2010, the dreaded

law is just now coming into its own.

That could be nice timing for Bitcoin. It is anonymous, which is a good start. Think of Bitcoin like unmarked, non-sequential bills. Indeed, the fact that Bitcoin is not dependent on the existence of financial intermediaries is key. Mr. Marian suggests that much more government regulation is coming once the authorities recognize Bitcoin's potential for serious tax evasion.

The Treasury unit called FinCEN, the Financial Crimes Enforcement Network, already has rules about Bitcoin. The IRS is likely to follow. For example, I expect IRS Forms 1099 can't be too far off. If you pay a consultant with a new car or in Bitcoins you may have to issue a Form 1099 for that value.

If you are paying wages with Bitcoin, you can hardly withhold some of the Bitcoin and send it to the IRS. If you exchange Bitcoins for cash, whether you have gain may depend on whether Bitcoin is really currency or commodity. The latter seems more likely, meaning you have gain to the extent of the appreciation in your Bitcoin.

FinCEN says Bitcoin exchanges and Bitcoin miners should register as Money Services Businesses (MSBs) and comply with anti-money laundering regulations. Still, ordinary Bitcoin users don't have to register just to purchase goods and services. The IRS treats it as pay in kind, just as if you paid in groceries or anything else of value. You must value what's provided, withhold income and employment taxes in cash and send the money to the IRS. You also must issue a Form W-2.

With no banking or government involvement, Bitcoin may be anonymous. It may even be ideal for someone who intentionally tries not to pay tax. That may be a small piece of the Bitcoin payment universe. But for most people who file tax returns and report their income whether or not it shows up on a Form W-2 or 1099, it probably isn't the tax haven some are suggesting it is.

The IRS will surely take steps to regularize tax reporting. What's more, a Government Accountability Office (GAO) report says the IRS could do a better job telling people they have to pay tax on Bitcoin transactions. Like it or not, that message is probably coming.

**From:** [Moriarty John P](#)  
**To:** [Welsh Donna J](#)  
**Subject:** FW: FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies  
**Date:** Friday, February 07, 2014 9:49:00 AM

---

Your office or mine for the call?

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]  
**Sent:** Friday, February 07, 2014 9:39 AM  
**To:** Moriarty John P  
**Subject:** RE: FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies

Thanks for the reminder!

---

**From:** Moriarty John P [mailto:[John.P.Moriarty@irs.counsel.treas.gov](mailto:John.P.Moriarty@irs.counsel.treas.gov) ]  
**Sent:** Friday, February 07, 2014 9:23 AM  
**To:** Hodes, Rochelle  
**Subject:** RE: FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies

Rochelle,

Is there a call-in number for this?

John

-----Original Appointment-----

**From:** Moriarty John P  
**Sent:** Thursday, February 06, 2014 4:09 PM  
**To:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Accepted: FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies  
**When:** Friday, February 07, 2014 10:30 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).  
**Where:** TBD

**From:** [Blanchard William E](#)  
**To:** [Welsh Donna J](#)  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....  
**Date:** Monday, November 18, 2013 11:07:28 AM

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**From:** Fahey Douglas A  
**Sent:** Monday, November 18, 2013 10:21 AM  
**To:** [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)  
**Cc:** Blanchard William E  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Okay, that's fine. We're trying to keep this as plain English as possible because these are Q&As, not regs. On the exchanges, we're definitely open to other ways of saying that. There are exchanges for bitcoin, Mt. Gox being the best known. There is a bitcoin ATM in Vancouver. I think there are also exchanges to convert Linden dollars from Second Life into US dollars. [REDACTED]

(b)(5)  
(b)(5)

Doug Fahey  
202.622.7883  
**AS OF 11/12/13, PHONE WILL BE 202-317-4619**

---

**From:** [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov) [<mailto:Karl.Walli@treasury.gov>]  
**Sent:** Monday, November 18, 2013 9:43 AM  
**To:** Fahey Douglas A  
**Cc:** Blanchard William E  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Hi, Doug. I don't think we [REDACTED]

(b)(5)  
(b)(5)

---

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irs.counsel.treas.gov>]  
**Sent:** Monday, November 18, 2013 9:29 AM  
**To:** Walli, Karl  
**Cc:** Blanchard, William E  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Hi Karl. Take a look at Q&A-1. [REDACTED]

(b)(5)  
(b)(5)

Doug Fahey

202.622.7883

AS OF 11/12/13, PHONE WILL BE 202-317-4619

---

**From:** Blanchard William E  
**Sent:** Saturday, November 16, 2013 6:56 PM  
**To:** Fahey Douglas A  
**Subject:** Fw: FYI Update on status of guidance on virtual currencies....

---

**From:** [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov) [<mailto:Karl.Walli@treasury.gov>]  
**Sent:** Saturday, November 16, 2013 04:34 PM  
**To:** Blanchard William E  
**Subject:** Re: FYI Update on status of guidance on virtual currencies....

(b)(5)

**From:** Blanchard William E [<mailto:William.E.Blanchard@IRSCOUNSEL.TREAS.GOV>]  
**Sent:** Saturday, November 16, 2013 02:55 PM Eastern Standard Time  
**To:** Walli, Karl; Fahey, Douglas A  
**Subject:** Re: FYI Update on status of guidance on virtual currencies....

(b)(5)

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**From:** [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov) [<mailto:Karl.Walli@treasury.gov>]  
**Sent:** Friday, November 15, 2013 06:16 PM  
**To:** Blanchard William E  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....



(b)(5)

---

**From:** Blanchard William E [<mailto:William.E.Blanchard@IRSCOUNSEL.TREAS.GOV>]  
**Sent:** Friday, November 15, 2013 5:44 PM  
**To:** Walli, Karl  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

What question did you ask me to pay attention to? My mind is shot.

---

**From:** Rogers John W III  
**Sent:** Friday, November 15, 2013 5:34 PM  
**To:** Dubert Alexa T  
**Cc:** Blanchard William E  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Hey Alexa,

Ned just visited, and we stopped and visited very briefly with Helen. As an initial matter, FAQ's generally don't have specific language from a reg, so Mark's suggestion will likely not go further. That said, Ned and I had a couple of questions:

(b)(5)

(b)(5)

Thanks in advance for taking this up!

(b)(5)

Ned, feel free to chime in if I missed something.

John

---

**From:** Dubert Alexa T  
**Sent:** Friday, November 15, 2013 12:00 PM  
**To:** Blanchard William E; Rogers John W III  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Mark raises a good point. My suggestions for Q4:

(b)(5)

(b)(5)

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**From:** Welsh Donna J  
**Sent:** Friday, November 15, 2013 11:42 AM  
**To:** Blanchard William E; Dubert Alexa T; Erwin Mark E  
**Cc:** Keyso Jr. Andrew J; Fahey Douglas A; Aqui Keith A; Welsh Donna J  
**Subject:** F W: FYI Update on status of guidance on virtual currencies....

Hi Everyone, Attached is the most recent version of the FAQs that we provided to Alice Ronk. The please look at FAQ4 and the comments from IRS below.

(b)(5)

(b)(5)

Thanks!  
donna

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**From:** Welsh Donna J  
**Sent:** Thursday, November 14, 2013 7:22 PM  
**To:** 'Perwien Mark S'  
**Cc:** Ronk Alice L; Fahey Douglas A; Keyso Jr. Andrew J  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Yes, we coordinated heavily with FIP and ACCI on developing the FAQs. Mark Irwin and Ned B. saw earlier versions of the FAQs and I will send them the most recent version. What ITA was intending

(b)(5)

Thank you for your comments.

---

**From:** Perwien Mark S [<mailto:Mark.S.Perwien@irs.gov>]  
**Sent:** Thursday, November 14, 2013 5:41 PM  
**To:** Ronk Alice L; Welsh Donna J; Fahey Douglas A; Keyso Jr. Andrew J  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Donna, Doug, and Andy did you coordinate with anyone in FIP or ACCI? Ned Blanchard worked on the regulation I cited and has thought a lot about the various meanings of public trading in the Code. Mark Erwin and Tony Marra of Branch 5 of ACCI have done some thinking on Bitcoin.

Mark S. Perwien  
Senior Advisor Financial Products  
(O) (212) 298-2050  
(C) (201) 851-2422

290 Broadway, 12th Floor  
New York, NY 10007

---

**From:** Ronk Alice L  
**Sent:** Thursday, November 14, 2013 5:07 PM  
**To:** Perwien Mark S; McGeady Johanna M  
**Cc:** Sereti Rosemary J; Fee James C; Gillen Duane M; Welsh Donna J; Fahey Douglas A; Keyso Jr. Andrew J  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Thanks Mark. I've copied Donna Welsh, Andrew Keyso, and Doug Fahey of Chief Counsel on this reply, in case they want to contact you directly. I also forwarded your prior suggestion. Thanks again for your time.

-Alice

---

**From:** Perwien Mark S  
**Sent:** Thursday, November 14, 2013 5:04 PM  
**To:** Ronk Alice L; McGeady Johanna M  
**Cc:** Sereti Rosemary J; Fee James C; Gillen Duane M  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Another alternative to my language would be to substitute [REDACTED]

(b)(5)  
(b)(5)

Mark S. Perwien  
Senior Advisor Financial Products  
(O) (212) 298-2050  
(C) (201) 851-2422  
290 Broadway, 12th Floor  
New York, NY 10007

---

**From:** Ronk Alice L  
**Sent:** Thursday, November 14, 2013 4:54 PM  
**To:** McGeady Johanna M  
**Cc:** Sereti Rosemary J; Perwien Mark S; Fee James C; Gillen Duane M; Ronk Alice L  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Great. Thanks. I will forward Mark's change to Chief Counsel. I really appreciate his input. And the TNT article.

---

**From:** McGeady Johanna M  
**Sent:** Thursday, November 14, 2013 4:43 PM  
**To:** Ronk Alice L  
**Cc:** Sereti Rosemary J; Perwien Mark S; Fee James C; Gillen Duane M  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Hi, Alice. Thank you and Duane for sharing!

We agree with FAQ. [REDACTED]

(b)(5)

(b)(5)

Thanks again, Alice!

Jo

Jo McGeady-Murphy  
Acting Director of Field Operations, Financial Products  
LB&I, Financial Services  
484-636-0504

---

**From:** Perwien Mark S  
**Sent:** Thursday, November 14, 2013 4:23 PM  
**To:** McGeady Johanna M; Sereti Rosemary J  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Answer number 4 is unclear. It states "

(b)(5)

I am attaching an article from yesterday's TNT, authored by tax professionals from PWC, which basically agrees with the conclusions in the Q&A.

Mark S. Perwien  
Senior Advisor Financial Products  
(O) (212) 298-2050  
(C) (201) 851-2422  
290 Broadway, 12th Floor  
New York, NY 10007

---

**From:** McGeady Johanna M  
**Sent:** Thursday, November 14, 2013 1:46 PM  
**To:** Sereti Rosemary J; Perwien Mark S  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Hi! I don't have any concerns with FAQs and was going to give the go ahead. If you have any concerns, please let me know. It is pretty basic stuff and very SBSE

centric.

---

**From:** Ronk Alice L  
**Sent:** Thursday, November 14, 2013 1:02 PM  
**To:** McGeady Johanna M  
**Cc:** Ronk Alice L  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Hello,

My Director, Duane Gillen, wanted to share the current draft of the of FAQs that have been prepared on virtual currency transactions. These FAQs were prepared by ATTI in response to the GAO report on e-commerce that recommended that the Service provide additional guidance on transactions involving virtual currency by linking to existing guidance. The FAQs have been reviewed and revised by Chief Counsel. Yesterday, Chief Counsel sent the draft FAQs to Treasury for approval. If you have any comments or concerns, please let me know. (FYI: We in ATTI are currently planning to draft some example that illustrate the information provided. These examples would need to be approved by Chief Counsel and Treasury before including with the FAQs. Examples will be shared when drafted.)

Alice Ronk  
Attorney-Adviser to the Director  
Abusive Transactions and Technical Issues  
SB/SE Examination  
202-262-7901

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** FW: FYI re Bitcoin guidances.... PUBWE-131431-13  
**Date:** Wednesday, September 11, 2013 10:52:48 AM

---

Fyi..

---

**From:** Ronk Alice L [mailto:[Alice.L.Ronk@irs.gov](mailto:Alice.L.Ronk@irs.gov)]  
**Sent:** Monday, September 09, 2013 11:08 AM  
**To:** Welsh Donna J  
**Cc:** [REDACTED] Ronk Alice L  
**Subject:** FYI re Bitcoin guidances.... PUBWE-131431-13

(b) (7) (D) (S)

Hi Donna,

If Chief Counsel schedules any meetings to discuss the proposed answers or circulates emails on this topic, please include [REDACTED]

(b) (7) (D) (S)

[REDACTED] Thanks. I've copied [REDACTED] on this email.

(b) (7) (D) (S)

-Alice

**From:** [Fahey Douglas A](#)  
**To:** [Baumgarten Peter J](#); [Welsh Donna J](#)  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Date:** Tuesday, June 04, 2013 4:04:15 PM  
**Attachments:** [GAO-13-516 IRS Response.pdf](#)

---

FYI

Doug Fahey  
202.622.7883

---

**From:** Goldstein Richard S  
**Sent:** Tuesday, June 04, 2013 4:01 PM  
**To:** Fahey Douglas A  
**Subject:** RE: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

Doug,

The IRS just sent me the May 3rd response the IRS provided GAO.

Richard

---

**From:** Goldstein Richard S  
**Sent:** Tuesday, June 04, 2013 3:35 PM  
**To:** Fahey Douglas A  
**Subject:** RE: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

No, GAO has not issued its final report (GAO-13-516) for Audit #451007. I don't have a copy of any interim response that may have been provided to GAO. (For GAO reports, the final response is sent to Congress no later than 60 days after GAO issues its report).

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, June 04, 2013 3:22 PM  
**To:** Goldstein Richard S  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

Rich -- Has this report been finalized? Do we know what the IRS response is to any recommendation from GAO? Media Relations is asking for assistance in handling a reporter's inquiry about Bitcoins generally.

Doug Fahey  
202.622.7883

---

**From:** Fahey Douglas A  
**Sent:** Monday, April 15, 2013 4:51 PM  
**To:** Goldstein Richard S; Thomas Lowell D  
**Cc:** Welsh Donna J; Baumgarten Peter J  
**Subject:** RE: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

CC:ITA requests a few minor revisions to the report.

(b)(5)

Doug Fahey  
202.622.7883

---

**From:** Welsh Donna J  
**Sent:** Thursday, April 11, 2013 9:54 AM  
**To:** Fahey Douglas A  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Importance:** High

fyi

---

**From:** Goldstein Richard S  
**Sent:** Thursday, April 11, 2013 6:54 AM  
**To:** Pflanz Shareen S; Welsh Donna J; Shelburne Anne P; Osborne Martin L; Rotunno Norma C; Griffin Adrienne E; Hall Charles A; Jensen Steven D; Erwin Mark E; Baumgarten Peter J; Blanchard William E; Munroe David  
**Cc:** Wall Judith M; Thomas Lowell D  
**Subject:** GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Importance:** High

Attached is the draft report for the above referenced audit. SBSE is preparing the IRS response and must have it in clearance by April 17th. Thus, to ensure that SBSE can incorporate our comments in the response, please have any comments you may



have to Lowell and I by the close of business on April 15th. If you do not have comments, a negative response is requested. Thanks,

Richard

---

**From:** Reese-Jacobs Donna Y [mailto:Donna.Y.Reese-Jacobs@irs.gov]  
**Sent:** Wednesday, April 10, 2013 4:55 PM  
**To:** Koon Jodi L; Ronk Alice L  
**Cc:** Berman Samuel; Goldstein Richard S  
**Subject:** ACTION DUE: JC Code 451007 VIRTUAL ECONOMIES AND CURRENCIES Additional IRS Guidance Could Reduce Tax Compliance Risks  
**Importance:** High

GAO has issued their draft report on the subject audit. SB/SE is the lead stakeholder and will prepare the IRS response with input from Counsel. The IRS response is due to GAO by May 3, 2013. The draft response approved by SB/SE Director, Examination and Chief Counsel will be due to GTI by April 17, 2013. This will allow for further clearance and to meet Legislative Affairs due date of April 29, 2013.

The GAO recommends the following action:

(b)(5)

Attached to assist with preparing the response is:

- § Draft Report for IRS Comment & 451007 draft report cover memo
- § JC 451007 Draft Report Note to Reviewer
- § Staff Routing Sheet (2)
- § Sample Signed Response
- § GAO 451007 IRS Response.doc Template

*Donna Reese-Jacobs,*

TIGTA/GAO LIAISON

SBSE, Communications and Stakeholder Outreach

GAO/TIGTA/IMRS Branch (GTI )

V: 202-283-1547

F: 202-283-2385

Email: [donna.y.reese-jacobs@irs.gov](mailto:donna.y.reese-jacobs@irs.gov)

**From:** [Thomas Lowell D](#)  
**To:** [Mosley Susan T](#); [Mack Lawrence E](#); [Griffin Adrienne E](#); [Welsh Donna J](#); [Hall Charles A](#); [Hartford Susan L](#)  
**Cc:** [Goldstein Richard S](#)  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Date:** Friday, April 12, 2013 11:14:29 AM  
**Attachments:** [GAO 13 516 DRAFT REPORT FOR IRS COMMENT SECURED.pdf](#)  
[451007 draft report cover memo .doc](#)  
[JC451007 Draft Report Note to Reviewer.doc](#)  
[451007 Action Routing Sheet.pdf](#)  
[451007 Action Routing Sheet2.pdf](#)  
[GAO-12-857 IRS Response.pdf](#)  
[GAO 451007 IRS Response.doc](#)  
**Importance:** High

---

April 15 is the operative date for responding. (Please disregard my previous msg requesting a response by COB 1-19-13.)

---

**From:** Goldstein Richard S  
**Sent:** Thursday, April 11, 2013 6:54 AM  
**To:** Pflanz Shareen S; Welsh Donna J; Shelburne Anne P; Osborne Martin L; Rotunno Norma C; Griffin Adrienne E; Hall Charles A; Jensen Steven D; Erwin Mark E; Baumgarten Peter J; Blanchard William E; Munroe David  
**Cc:** Wall Judith M; Thomas Lowell D  
**Subject:** GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Importance:** High

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Richard

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The GAO recommends the following action:

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(b)(5)

Attached to assist with preparing the response is:

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- § GAO 451007 IRS Response.doc Template

*Donna Reese-Jacobs,*

TIGTA/GAO LIAISON

SBSE, Communications and Stakeholder Outreach

GAO/TIGTA/IMRS Branch (GTI )

V: 202-283-1547

F: 202-283-2385

Email: [donna.y.reese-jacobs@irs.gov](mailto:donna.y.reese-jacobs@irs.gov)

**From:** [Welsh Donna J](#)  
**To:** [Welsh Donna J](#)  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Date:** Friday, January 23, 2015 9:07:26 PM  
**Attachments:** [GAO-13-516 IRS Response.pdf](#)

---

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**From:** Fahey Douglas A  
**Sent:** Tuesday, June 04, 2013 4:04 PM  
**To:** Baumgarten Peter J; Welsh Donna J  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

FYI

Doug Fahey  
202.622.7883

---

**From:** Goldstein Richard S  
**Sent:** Tuesday, June 04, 2013 4:01 PM  
**To:** Fahey Douglas A  
**Subject:** RE: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

Doug,

The IRS just sent me the May 3rd response the IRS provided GAO.

Richard

---

**From:** Goldstein Richard S  
**Sent:** Tuesday, June 04, 2013 3:35 PM  
**To:** Fahey Douglas A  
**Subject:** RE: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

No, GAO has not issued its final report (GAO-13-516) for Audit #451007. I don't have a copy of any interim response that may have been provided to GAO. (For GAO reports, the final response is sent to Congress no later than 60 days after GAO issues its report).

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**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

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Doug Fahey  
202.622.7883

---

**From:** Fahey Douglas A  
**Sent:** Monday, April 15, 2013 4:51 PM  
**To:** Goldstein Richard S; Thomas Lowell D  
**Cc:** Welsh Donna J; Baumgarten Peter J  
**Subject:** RE: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

CC:ITA requests a few minor revisions to the report.



Doug Fahey  
202.622.7883

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**From:** Welsh Donna J  
**Sent:** Thursday, April 11, 2013 9:54 AM  
**To:** Fahey Douglas A  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Importance:** High

fyi

---

**From:** Goldstein Richard S  
**Sent:** Thursday, April 11, 2013 6:54 AM  
**To:** Pflanz Shareen S; Welsh Donna J; Shelburne Anne P; Osborne Martin L; Rotunno Norma C; Griffin Adrienne E; Hall Charles A; Jensen Steven D; Erwin Mark E; Baumgarten Peter J; Blanchard William E;

**From:** [Berman Samuel](#)  
**To:** [Gillen Duane M](#)  
**Cc:** [Travers Thomas J](#); [Welsh Donna J](#)  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Date:** Monday, June 10, 2013 6:06:33 PM  
**Attachments:** [GAO-13-516 IRS Response.pdf](#)

---

Duane,

This is for your information. You may have already seen this but attached is the Service's May 3 response with respect to the recommendation from GAO that IRS issue informal guidance on reporting virtual currency transactions.

Samuel Berman  
Acting Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#); [Fahey Douglas A](#)  
**Subject:** FW: Germany's Fidor Bank Is First Bank to Use Ripple Network  
**Date:** Wednesday, May 07, 2014 2:50:58 PM

---

Fyi...

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**From:** Utzke David J [mailto:David.Utzke@irs.gov]  
**Sent:** Wednesday, May 07, 2014 12:56 PM  
**To:** Edelman Edward M; Carter Kareem A; Griesbach David; Berman Samuel; Welsh Donna J  
**Subject:** Germany's Fidor Bank Is First Bank to Use Ripple Network

Fidor Bank AG is the first bank to integrate the real-time global settlement protocol provided by Ripple Labs.

The German direct bank will adopt San Francisco-based Ripple's open-source, distributed payment protocol that enables nearly free instant payments in any currency, including dollars, yen, euros, Bitcoin and loyalty points. Ripple Labs also has its own virtual currency, called ripple.

"Ripple enables us to securely and instantly send money anywhere in the world at no additional cost and through the same customer facing products and relationships we offer today," says Matthias Kroner, CEO of Fidor Bank AG, in a press release.

*David J Utzke*, PhD, MAFF, CFE, CFI, CESA  
International Technical Specialist, Offshore Compliance, IIC, LB&I  
Phone: 626.927.1237  
Fax: 855.702.8175

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#)  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies  
**Date:** Thursday, February 20, 2014 11:37:32 AM

---

Keith, are you free now or would you rather make the call this afternoon?

Doug Fahey

**NEW PHONE 202-317-4619**

---

**From:** Welsh Donna J  
**Sent:** Thursday, February 20, 2014 10:18 AM  
**To:** Aqui Keith A; Fahey Douglas A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Yes. Just ring me.

---

**From:** Aqui Keith A  
**Sent:** Thursday, February 20, 2014 9:50 AM  
**To:** Fahey Douglas A; Welsh Donna J  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I am available.

---

**From:** Fahey Douglas A  
**Sent:** Thursday, February 20, 2014 9:50 AM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I'm sorry but I forgot I have a 10:00 meeting this morning. Can we make the call after my 10:00 is over?

Doug Fahey

**NEW PHONE 202-317-4619**

---

**From:** Welsh Donna J  
**Sent:** Wednesday, February 19, 2014 3:33 PM  
**To:** Fahey Douglas A; Aqui Keith A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Good. Pls call me at home 703-237-3454.

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 19, 2014 3:27 PM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

How about tomorrow morning at 10:30?

Doug Fahey



NEW PHONE 202-317-4619

---

**From:** Welsh Donna J  
**Sent:** Wednesday, February 19, 2014 2:11 PM  
**To:** Fahey Douglas A; Aqui Keith A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

[Redacted]

(b)(5)

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 19, 2014 11:27 AM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

[Redacted]

(b)(5)

Doug Fahey  
NEW PHONE 202-317-4619

---

**From:** Freeman Curtis L [<mailto:Curtis.L.Freeman@irs.gov>]  
**Sent:** Friday, February 14, 2014 1:51 PM  
**To:** Fahey Douglas A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

[Redacted]

(b)(5)

*Curtis L. Freeman*

Media & Publications      [Curtis.L.Freeman@irs.gov](mailto:Curtis.L.Freeman@irs.gov)

Desk/Laptop 202-317-6152    Cell: 202.360.2110    ID No. 1000060754

---

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irs.counsel.treas.gov>]  
**Sent:** Friday, February 14, 2014 1:13 PM  
**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest

Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Subject:** Greensheet Circulation - Notice on Virtual Currencies

EXPEDITED REVIEW REQUESTED

Attached is a proposed notice that provides guidance in a Q&A format on some of the tax consequences arising from transactions using virtual currencies, including Bitcoin. The notice is targeted for release by the end of this month, so please submit any comments to me no later than COB Friday 2/21/14.

<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey

**NEW PHONE 202-317-4619**

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies  
**Date:** Wednesday, February 19, 2014 5:06:25 PM  
**Attachments:** [Bitcoin Notice 2-19-14 ACCI Comments - with new number.docx](#)

---

Comments from Intl

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, February 19, 2014 4:37 PM  
**To:** Welsh Donna J  
**Cc:** Erwin Mark E; Jensen Steven D; Jenn Brian  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Thanks, Donna. The branch number is 317-6938. I've fixed that in the attached doc.

---

**From:** Welsh Donna J  
**Sent:** Wednesday, February 19, 2014 4:33 PM  
**To:** Stahl Raymond J  
**Cc:** Erwin Mark E; Jensen Steven D; Jenn Brian  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi Ray, thanks. I will forward your comments along. I do not want to include your personal phone number in the Notice. So please make sure the phone number in the Notice is for your Branch.

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, February 19, 2014 4:27 PM  
**To:** Welsh Donna J  
**Cc:** Erwin Mark E; Jensen Steven D; Jenn Brian  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi Donna –

After discussing the Notice with our front office and Brian Jenn (cc'd) at Treasury, we have two proposed edits:



(b)(5)

(b)(5)

We'd be happy to discuss this.

Kind regards,

Ray

<< File: Bitcoin Notice 2-19-14 ACCI Comments.docx >>

---

**From:** Welsh Donna J

**Sent:** Wednesday, February 19, 2014 2:46 PM

**To:** Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Fahey Douglas A; Welsh Donna J

**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Fahey Douglas A

**Sent:** Friday, February 14, 2014 1:13 PM

**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

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<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey

**NEW PHONE 202-317-4619**

**From:** [Berman Samuel](#)  
**To:** [Welsh Donna J](#)  
**Subject:** FW: How Will the IRS Tax Bitcoin?  
**Date:** Monday, December 23, 2013 1:33:04 PM

---

Donna,

This is a recent Wall Street Journal article on the taxation of bitcoin transactions. The FAQs will answer many of the tax-related questions that the article raises. Do you have anything new on the status of the FAQs?

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Marshall William P [mailto:William.P.Marshall@irs.gov]  
**Sent:** Monday, December 23, 2013 1:07 PM  
**To:** Berman Samuel; Gillen Duane M; Ronk Alice L; Chagami Cathy E; Lightfoot Mary A; Lincoln Sheri L; McCarthy Kevin F; O'Rourke Maureen; Whitehall Michael C  
**Subject:** How Will the IRS Tax Bitcoin?

# How Will the IRS Tax Bitcoin?

## The Wall Street Journal

December 20, 2013

### How Will the IRS Tax Bitcoin?

**It's an open question, but one with growing consequences**

By Laura Saunders

Despite a recent plunge, bitcoin has had a banner year. Now comes the hard part—figuring out the taxes on it.

For the uninitiated, bitcoin is the most prominent of several "virtual currencies"—money that exists only online and isn't backed by any government. Released in 2009 by an unknown person or group going by the name Satoshi Nakamoto, bitcoin is maintained by a decentralized network of computers, called "miners," that process and verify transactions. As of Friday afternoon, the value of all bitcoins in circulation was nearly \$8 billion, according to CoinDesk.

This year the price of a bitcoin has risen from about \$13.50 to about \$650 on some exchanges, down from a November high of about \$1,200 just before concerns arose that China will crack down on the virtual currency.

Experts say, however, that there's no agreement on a host of fundamental questions for U.S. taxpayers holding or using virtual currencies. "People who invested in bitcoin or used it to

buy goods or services this year have gains or losses, but no rules for reporting them," says Omri Marian, a professor of law at the University of Florida in Gainesville. "What should they do in April?"

Among the pressing issues: When should bitcoin be considered a commodity, a currency or a capital asset for tax purposes? Are bitcoin transactions similar to barter? Is bitcoin subject to the same stringent tax rules as secret offshore accounts? And how will U.S. officials keep bitcoin, which is even more anonymous than cash, from being used to promote tax evasion or money laundering?

So far, the Internal Revenue Service hasn't ruled on or addressed such issues directly. An agency spokesman released the following statement: "The IRS continues to study virtual currencies and intends to provide some guidance on the tax consequences" of transactions involving them. The agency is also "aware of the potential tax compliance risks posed by virtual currencies," he added.

Meanwhile, bitcoin investors and users should be aware of some thorny basic issues. If bitcoin is a capital asset like a stock, says David Shapiro, a principal at PricewaterhouseCoopers in Washington, then long-term capital gains and losses—those on assets held for more than a year—would qualify for a top federal rate of about 24%. But losses above \$3,000 could only be deducted against other capital gains.

If, on the other hand, bitcoin counts as a currency (like euros or yen), then gains will be taxed at federal rates on ordinary income up to 43.4%, Mr. Shapiro says, and losses will be fully deductible against ordinary income like wages.

In its preliminary filing, the Winklevoss Bitcoin Trust—a public fund registered by brothers Cameron and Tyler Winklevoss, of Facebook fame—said it intends to treat bitcoin as a capital asset instead of a currency, unless the IRS rules otherwise.

Clearly, someone could have a taxable gain or loss in bitcoin when it is sold or given away. But there could also be a taxable gain or loss when bitcoin is used simply to purchase goods or services, says Mindi Lowy, a tax director at PricewaterhouseCoopers in New York. "The fact that using bitcoin to buy something could trigger taxes will come as a surprise to typical consumers," she says. Most people, after all, don't think of spending money as an act that could generate taxable gains or losses.

Taxpayers may also have difficulty tracking a bitcoin's "cost basis," which is the price used as the starting point for measuring taxable gain or loss, says Ms. Lowy. Unlike with assets such as stock or mutual funds, there's no institution keeping bitcoin records, and taxpayers may not even know they need to do so themselves.

Also up in the air: whether offshore-account reporting rules apply to bitcoin. Taxpayers with \$10,000 or more in non-U.S.-based financial accounts often have to report the accounts to the U.S. even if they don't generate income, or else they risk severe penalties.

A spokesman for FinCen, the U.S. Treasury Department unit charged with preventing financial crimes, says this question is "under consideration and will be made in consultation with the IRS," but it's unclear when.

The IRS could face a bigger headache if bitcoin and its kin replace tax havens as the venue of choice for tax evaders, Mr. Marian says.

"Virtual currencies possess the traditional benefits of tax havens: anonymity and no tax," he says. While rules now taking effect are putting pressure on governments and financial institutions to end offshore tax evasion, he adds, "virtual currencies pose a threat to this recent success because they don't depend on banks or governments."

Mr. Marian says that he and many other specialists are "stumped" as to how the IRS will rule on bitcoin. He says his own sense is that it's a commodity similar to gold, because there's a finite supply and it's a store of value. He adds that some bitcoin transactions may be akin to barter—which has its own tricky tax rules.

In the absence of guidance, advisers are telling clients that bitcoin income, gains and losses should be declared to the IRS.

"If you take a reasonable position, they probably will accept it," says Jonathan Horn, a certified public accountant in New York. He plans to advise his clients to file foreign account disclosures if they meet certain thresholds and hold bitcoin through an entity that isn't located in the U.S.

Taxpayers who have bitcoin and flout the tax rules, Mr. Horn warns, "are opening themselves to penalties, interest and possible fraud prosecution."

**From:** [Moriarty John P](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Crisalli Donna M](#)  
**Subject:** FW: Inside Bitcoin  
**Date:** Friday, March 28, 2014 5:24:00 PM

---

This should have gone to you in the first place. Sorry about that.

John

---

**From:** Crisalli Donna M  
**Sent:** Friday, March 28, 2014 5:07 PM  
**To:** Moriarty John P  
**Cc:** Keyso Jr. Andrew J  
**Subject:** RE: Inside Bitcoin

Wrong Donna

**Donna M. Crisalli**  
**(202) 317-4611**

---

**From:** Moriarty John P  
**Sent:** Friday, March 28, 2014 5:04 PM  
**To:** Crisalli Donna M  
**Cc:** Keyso Jr. Andrew J  
**Subject:** FW: Inside Bitcoin

As we discussed, feel free to say no to this citing resources or to pass it along to someone in your LBI bitcoin working group.

John

---

**From:** Moriarty John P  
**Sent:** Friday, March 28, 2014 5:03 PM  
**To:** 'daniel.l.tannebaum@us.pwc.com'  
**Cc:** Welsh Donna J ([Donna.J.Welsh@irs.counsel.treas.gov](mailto:Donna.J.Welsh@irs.counsel.treas.gov))  
**Subject:** RE: Inside Bitcoin

Dan,

I've asked Donna Welsh to get back to you about this request and am copying her to put her in touch with you.

John P. Moriarty  
Deputy Associate Chief Counsel (ITA)  
202-317-7002

**From:** [daniel.l.tannebaum@us.pwc.com](mailto:daniel.l.tannebaum@us.pwc.com) [<mailto:daniel.l.tannebaum@us.pwc.com>]



**Sent:** Friday, March 28, 2014 11:26 AM  
**To:** Moriarty John P  
**Subject:** Inside Bitcoin

Hi John,

As we discussed this is the event, Inside Bitcoins NYC -  
<http://www.mediabistro.com/insidebitcoins/new-york/?c=bcoinnyelmb>.

The agenda is here: [http://www.mediabistro.com/insidebitcoins/new-york/agenda\\_day1.asp](http://www.mediabistro.com/insidebitcoins/new-york/agenda_day1.asp)

This is the panel description:



What I'm looking for from the IRS is to help understand their position from a regulatory compliance standpoint as the Federal Agency responsible for examining MSBs from a regulatory compliance standpoint.

Let me know if you need any additional information.

Regards,  
Dan

**Daniel L Tannebaum**

PwC | Director  
Office: 646-471-7159 | Mobile: 202-320-7243  
Email: [daniel.l.tannebaum@us.pwc.com](mailto:daniel.l.tannebaum@us.pwc.com)  
PricewaterhouseCoopers LLP  
300 Madison Avenue New York, NY 10017  
<http://www.pwc.com/us>

---

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**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Interagency Bank Fraud Working Group  
**Date:** Thursday, March 27, 2014 10:54:22 AM

---

FYI. I hope they are able to accommodate her busy schedule. She is clearly the best qualified for this.

**Doug Fahey**  
**202.317.4619**

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, March 26, 2014 5:35 PM  
**To:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)  
**Cc:** Fahey Douglas A  
**Subject:** RE: Interagency Bank Fraud Working Group

Thanks, Rochelle. I'll let him know and ask him to contact you.

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, March 26, 2014 5:34 PM  
**To:** Stahl Raymond J; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)  
**Cc:** Fahey Douglas A  
**Subject:** RE: Interagency Bank Fraud Working Group

I have a 10:30 call I need to be on in this building. If the working group is meeting at our building I could speak to the group for a half hour. Otherwise, I will have to pass for this Friday, but would be happy to talk to them another time.

---

**From:** Stahl Raymond J [<mailto:Raymond.J.Stahl@irscounsel.treas.gov>]  
**Sent:** Wednesday, March 26, 2014 4:10 PM  
**To:** Walli, Karl; Hodes, Rochelle  
**Cc:** Fahey, Douglas A  
**Subject:** Interagency Bank Fraud Working Group

Karl and Rochelle –



(b)(5)

Ray

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** FW: Interagency Bank Fraud Working Group  
**Date:** Thursday, March 27, 2014 9:03:19 AM

---

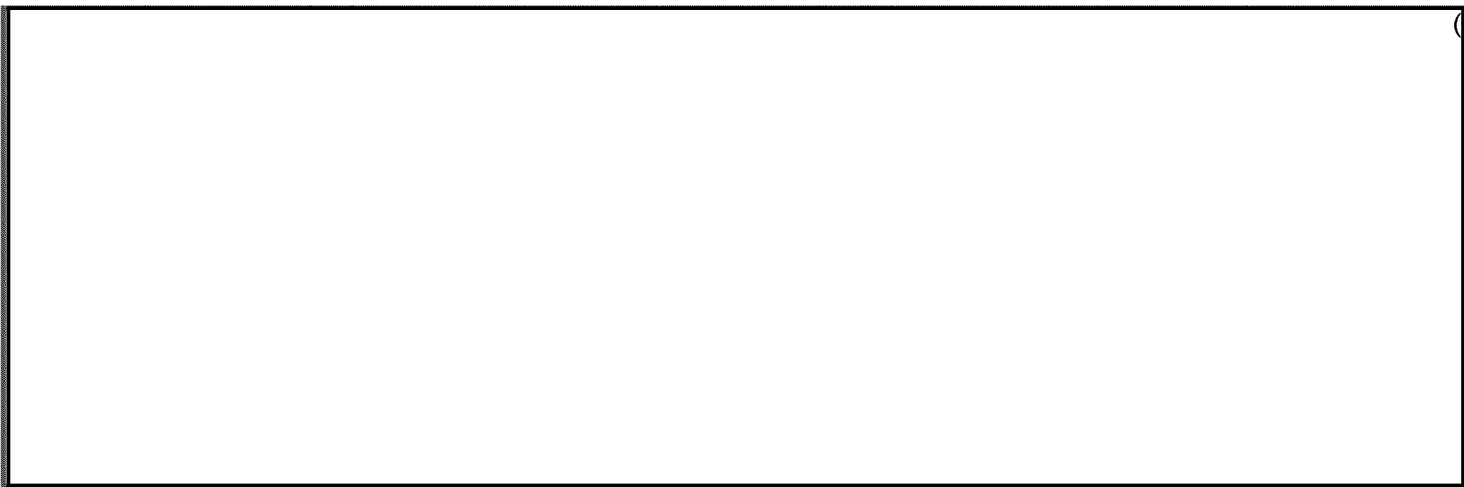
Keith – I'm wondering if this guy and Dan Tannenbaum were calling about the same thing. Does this sound similar?

**Doug Fahey**  
**202.317.4619**

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, March 26, 2014 4:10 PM  
**To:** Walli Karl - OTP; Hodes Rochelle - OTP  
**Cc:** Fahey Douglas A  
**Subject:** Interagency Bank Fraud Working Group

Karl and Rochelle –



(b)(5)

Ray

**From:** [Montemurro Michael J](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: IR-2014-36: IRS Virtual Currency Guidance: Virtual Currency Is Treated as Property for U.S. Federal Tax Purposes; General Rules for Property Transactions Apply  
**Date:** Tuesday, March 25, 2014 4:16:20 PM

---

Keith/Donna — Attached is the notice as released by IRS electronically to the public.

Michael J. Montemurro  
CC:ITA:4 – ☎ : 202.317-4744  
Rm. 4243 (enter room 4241)

---

**From:** IRS Newswire [<mailto:irs@service.govdelivery.com>]  
**Sent:** Tuesday, March 25, 2014 2:26 PM  
**To:** Montemurro Michael J  
**Subject:** IR-2014-36: IRS Virtual Currency Guidance: Virtual Currency Is Treated as Property for U.S. Federal Tax Purposes; General Rules for Property Transactions Apply



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IRS Newswire

March 25, 2014

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**Issue Number: IR-2014-36**

**Inside This Issue**

**IRS Virtual Currency  
Guidance: Virtual Currency  
Is Treated as Property for  
U.S. Federal Tax Purposes;  
General Rules for Property  
Transactions Apply**

WASHINGTON – The Internal Revenue Service today issued a notice providing answers to frequently asked questions (FAQs) on virtual currency, such as Bitcoin. These FAQs provide basic information on the U.S. federal tax implications of transactions in, or transactions that use, virtual currency.

In some environments, virtual currency operates like “real” currency -- i.e., the coin and paper money of the United States or of

<a href="#">Radio PSAs</a>	any other country that is designated as legal tender, circulates, and is customarily used and accepted as a medium of exchange in the country of issuance -- but it does not have legal tender status in any jurisdiction.
<a href="#">Fact Sheets</a>	
<a href="#">Armed Forces</a>	
<a href="#">Disaster Relief</a>	
<a href="#">Scams / Consumer Alerts</a>	
<a href="#">Tax Shelters</a>	
<b>IRS Resources</b>	
<a href="#">Compliance &amp; Enforcement</a>	
<a href="#">Contact My Local Office</a>	
<a href="#">Filing Options</a>	
<a href="#">Forms &amp; Pubs</a>	
<a href="#">Frequently Asked Questions</a>	
<a href="#">News</a>	
<a href="#">Taxpayer Advocate</a>	
<a href="#">Where to File</a>	
<a href="#">IRS Social Media</a>	
	<p>The notice provides that virtual currency is treated as property for U.S. federal tax purposes. General tax principles that apply to property transactions apply to transactions using virtual currency. Among other things, this means that:</p> <ul style="list-style-type: none"> <li>• Wages paid to employees using virtual currency are taxable to the employee, must be reported by an employer on a Form W-2, and are subject to federal income tax withholding and payroll taxes.</li> <li>• Payments using virtual currency made to independent contractors and other service providers are taxable and self-employment tax rules generally apply. Normally, payers must issue Form 1099.</li> <li>• The character of gain or loss from the sale or exchange of virtual currency depends on whether the virtual currency is a capital asset in the hands of the taxpayer.</li> <li>• A payment made using virtual currency is subject to information reporting to the same extent as any other payment made in property.</li> </ul> <p>Further details, including a set of 16 questions and answers, are in <a href="#">Notice 2014-21</a>, posted today on IRS.gov.</p> <p><a href="#">Back to Top</a></p>
	<p>Thank you for subscribing to the IRS Newswire, an IRS e-mail service.</p> <p>If you know someone who might want to subscribe to this mailing list, please forward this message to them so they can <a href="#">subscribe</a>.</p> <p>This message was distributed automatically from the mailing list IRS Newswire. <b>Please Do Not Reply To This Message.</b></p>

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This service is provided to you at no charge by the Internal Revenue Service (IRS).

---

This email was sent to [michael.j.montemurro@irs.counsel.treas.gov](mailto:michael.j.montemurro@irs.counsel.treas.gov) by: Internal Revenue Service (IRS) · Internal Revenue Service · 1111 Constitution Ave. N.W. · Washington DC 20535



**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Agui Keith A](#)  
**Subject:** FW: Isle of Man forms Manx Digital Currency Association  
**Date:** Tuesday, April 08, 2014 2:28:03 PM

---

Fyi...

-----Original Message-----

From: Utzke David J [<mailto:David.Utzke@irs.gov>]  
Sent: Tuesday, April 08, 2014 1:39 PM  
To: Edelman Edward M; Carter Kareem A; Eblen Mark D; Welsh Donna J; Berman Samuel  
Cc: Griesbach David  
Subject: Isle of Man forms Manx Digital Currency Association

The IFC (Int'l Finance Center) reported today is that there were over 40 industry participants attending an inaugural meeting on April 1st to form the Manx Digital Currency Association, MDCA. Chaired by barrister Paul Davis, the meeting moved quickly to approve formation of the Association and get to business.

Among the attendees were representatives of miners, exchanges, banks, gaming companies, CSPs, lawyers, web designers and programmers, hosting providers, payment processors and telecoms. All members will be listed on the Association's website as it is set up.

Among the attendees were representatives of miners, exchanges, banks, gaming companies, CSPs, lawyers, web designers and programmers, hosting providers, payment processors and telecoms. All members will be listed on the Association's website as it is set up.

Following a report on the recent ruling of the Isle of Man Financial Supervision Commission to the effect that licenses are not required for BitCoin Exchange activities, an important statement was made by Peter Greenhill, CEO of eGaming Development with the Isle of Man Government Department of Economic Development. Peter advised the meeting that there is presently no Department of Economic Development policy on eCurrency, however a paper is being prepared internally within government with a view to forming such a policy. He welcomed the formation of the Association and underlined the need to protect the Island's reputation and economy going forward. He indicated he would provide an update from the government side as soon as possible.

The meeting agreed on the appointment of Charlie Woolnough as secretary of the Association and Miles Benham as legal counsel. The position of President was left open pending further discussions, as was the issue of membership fees. Domicilium offered complementary hosting of the Association's website (to be constructed [www.mdca.im](http://www.mdca.im)) while Arts-Interactive offered to build the site free of charge.

David J Utzke, PhD, MAFF, CFE, CFI, CESA International Technical Specialist, Offshore Compliance, IIC, LB&I



Phone: 626.927.1237

Fax: 855.702.8175

**From:** [Aqui Keith A](#)  
**To:** [Keith7106aqui45@hotmail.com](mailto:Keith7106aqui45@hotmail.com)  
**Subject:** FW: Link to irs guidance on Virtual World Transactions  
**Date:** Friday, July 26, 2013 5:50:00 PM

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**From:** Welsh Donna J  
**Sent:** Friday, July 26, 2013 5:47 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Welsh Donna J  
**Subject:** Link to irs guidance on Virtual World Transactions

<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Tax-Consequences-of-Virtual-World-Transactions>

Hi Everyone, Here is a link to irs.gov on tax consequences of Virtual World Transactions. As I understand it, this is the type of guidance that is expected for Bitcoins. The informal guidance on Bitcoins should not go beyond existing guidance. There may be additional [perhaps formal guidance] in the future.

I look forward to discussing this with you all on Monday at 10.

**From:** [Aqui Keith A](#)  
**To:** [Keyso Jr. Andrew J](#); [Meola Karla M](#); [Berman Samuel](#); [Welsh Donna J](#); [Shepherd Neil D](#); [Dubert Alexa T](#); [Henkel Melissa A](#); [Griffin Adrienne E](#); [Stahl Raymond J](#)  
**Subject:** FW: May 4 2015 Meeting  
**Date:** Thursday, April 16, 2015 1:42:00 PM

---

FYI.

---

**From:** Greg Zbylut [<mailto:greg@gaztaxlaw.com>]  
**Sent:** Thursday, April 16, 2015 1:25 PM  
**To:** Aqui Keith A  
**Subject:** RE: May 4 2015 Meeting

You're welcome. I look forward to meeting you when we're in D.C. And, in case Paul hasn't mentioned it, the Delegation has a reception on Monday night at the Dolley Madison house from 6-8pm to which you and your colleagues are all invited (the more, the merrier – we usually wind up with a lot of food). It's a nice chance to meet people, socialize and get to know our group and others (Tax Court judges, OPR people) whom you might not otherwise get to meet in a relaxed setting. If you haven't been to the Dolley Madison house, it's an experience worth having. Also, it's an open invite, so feel free to bring your significant other, if you have one. My fiancée will be there, and she always enjoys talking to non-tax people...

Greg

---

**From:** Aqui Keith A [<mailto:Keith.A.Aqui@IRSCOUNSEL.TREAS.GOV>]  
**Sent:** Thursday, April 16, 2015 8:17 AM  
**To:** Greg Zbylut  
**Subject:** RE: May 4 2015 Meeting

Thank you very much!

---

**From:** Greg Zbylut [<mailto:greg@gaztaxlaw.com>]  
**Sent:** Wednesday, April 15, 2015 10:05 PM  
**To:** Aqui Keith A  
**Subject:** FW: May 4 2015 Meeting

Keith,

A Word copy of the paper is attached. Let me know if you need anything else.

*signature II*



ZLO | Zbylut Law Office  
Tax | Corporate | Estate Planning

121 West Lexington Drive  
Suite 202  
Glendale, CA 91203  
(626) 708-1040      phone      (818) 480-3280  
(626) 792-8700      fax      (909) 992-3017  
Licensed in Illinois and California  
Rated "AV Preeminent" by Martindale-Hubbell  
2012-2014 Southern California "Rising Star"  
2013-2014 Pasadena "Top Attorney"

---

**From:** Aqui Keith A [<mailto:Keith.A.Aqui@IRSCOUNSEL.TREAS.GOV> ]  
**Sent:** Tuesday, April 14, 2015 10:07 AM  
**To:** [staff@gazfinancial.com](mailto:staff@gazfinancial.com)  
**Cc:** Welsh Donna J  
**Subject:** May 4 2015 Meeting

We are still waiting on the briefing paper. We must circulate it to affected parties in sufficient time before the meeting.

Thanks.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#)  
**Subject:** FW: Meeting Today with the Bitcoin Foundation - FYI  
**Date:** Monday, August 26, 2013 11:07:04 AM

---

FYI

Doug Fahey  
202.622.7883

---

**From:** Berman Samuel  
**Sent:** Monday, August 26, 2013 10:22 AM  
**To:** Ronk Alice L; Larsen Eric R; Fahey Douglas A; Welsh Donna J; Keyso Jr. Andrew J; Sinno Suzanne; Hodes Rochelle - OTP  
**Subject:** FW: Meeting Today with the Bitcoin Foundation - FYI

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

## Wall Street Journal

### Bitcoin Group, Regulators to Meet

*By Robin Sidel*

Representatives from at least seven government agencies are scheduled to meet Monday with the main Bitcoin trade group amid a growing focus from regulators and law-enforcement authorities on the fledgling virtual currency.

Patrick Murck, general counsel for the Bitcoin Foundation, said he would make a presentation and answer questions from representatives of the Federal Reserve, Treasury Department, Federal Deposit Insurance Corp., Office of the Comptroller of the Currency, Internal Revenue Service, Federal Bureau of Investigation and Secret Service.

The IRS, FBI and Secret Service declined to comment. Representatives of the other agencies couldn't be reached for comment Sunday. The meeting is the latest sign that federal authorities are trying to figure out their jurisdiction in the world of virtual currencies, which aren't backed by a central government like traditional money.

Bitcoin, which is the most popular of these currencies, is created through a computer program and then traded on exchanges. It can also be used to buy real goods and services.

So far, authorities have focused their efforts on trying to ensure that Bitcoin exchanges don't run afoul of money-transmission laws or that the virtual currency isn't used for illegal activities, such as money laundering or drug purchases.

The Treasury Department's Financial Crimes Enforcement Network earlier this year issued guidelines placing virtual-currency exchanges under the same comprehensive anti-money-laundering requirements as traditional money-transmission businesses such as Western Union Co.

Mr. Murck said he is pleased with the chance to provide more information "so we can both move forward to the same safe regulatory environment."

"We understand there are specific challenges that go along with Bitcoin and there is a lot of potential and we want to work with them to chart a safe course," he said of the government agencies.

The trade group and some Bitcoin companies say they support efforts to ensure that the industry is operating in compliance with certain laws.

They contend that will help legitimize the fledgling industry and keep out bad players who want to use the currency for illegal activities.

It isn't clear if representatives from state banking agencies would attend the meeting.

Several states, including California and New York, have warned Bitcoin-related companies in recent months that they may be violating local money-transmission laws. And New York's Department of Financial Services earlier this month sent subpoenas to roughly two dozen Bitcoin companies seeking information on their business practices. One bitcoin is worth roughly \$122 on the Tokyo-based Mt. Gox exchange, where most bitcoins are traded.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: mining activity  
**Date:** Monday, March 10, 2014 3:26:35 PM  
**Attachments:** [Mining.pdf](#)

---

FYI. This is something that Marie put together at Erik's request. They sent it to Lisa Friday for her to consider in connection with the character of mining income issue.

Doug Fahey

**NEW PHONE 202-317-4619**

---

**From:** Milnes-Vasquez Marie C  
**Sent:** Monday, March 10, 2014 11:16 AM  
**To:** Fahey Douglas A  
**Subject:** mining activity

***Marie C. Milnes-Vasquez***  
***Chief, CC:Corp:Br4***

***Detailed to Deputy Chief Counsel (Technical)***

Main IR, Rm 3034

202-317-4105 (temp direct dial)

[Marie.C.Milnes-Vasquez@irscounsel.treas.gov](mailto:Marie.C.Milnes-Vasquez@irscounsel.treas.gov)

**From:** [Fahey Douglas A](#)  
**To:** [Warren Brinton T](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** FW: Most Serious Problems  
**Date:** Thursday, September 05, 2013 4:44:07 PM

---

FYI

Doug Fahey  
202.622.7883

---

**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, September 05, 2013 1:43 PM  
**To:** Wall Judith M  
**Cc:** Fahey Douglas A; Welsh Donna J  
**Subject:** FW: Most Serious Problems

Judy, as we've discussed previously, Doug Fahey and Donna Welsh are the primary contacts for ITA.

---

**From:** Sterner Christopher B  
**Sent:** Thursday, September 05, 2013 1:31 PM  
**To:** Wall Judith M  
**Cc:** Sterner Christopher B; Elliott Nicole M; Keyso Jr. Andrew J  
**Subject:** FW: Most Serious Problems

Judy, this has been assigned to ITA. Please coordinate as necessary. Thanks.

---

**From:** Sterner Christopher B  
**Sent:** Thursday, September 05, 2013 1:27 PM  
**To:** Elliott Nicole M  
**Cc:** Sterner Christopher B; Wall Judith M  
**Subject:** RE: Most Serious Problems

Judy Wall usually coordinates Counsel's responses to MSPs, so feel free to contact her on future matters. I think we will assign this one to ITA, but I am looking into it and will let you know.

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]  
**Sent:** Thursday, September 05, 2013 12:59 PM  
**To:** Sterner Christopher B  
**Subject:** Most Serious Problems

Chris: I have been charged with coordinating the response to the MSPs. The first one just came through on digital currency triggering the 7 and 30 day window. I think counsel needs to own this MSP as the problem and recommendations deal with the lack and need of guidance. I will need some help figuring out precisely who in counsel I need to be talking to – both with this particular MSP and in general. I hope you can help. MSP on digital currency is attached.

Nicole M. Elliott  
(202) 927-9588



**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** FW: Most Serious Problems  
**Date:** Friday, September 06, 2013 5:00:28 PM  
**Attachments:** [FW For IRS Response NTA MSP on the Tax Treatment of Digital Currency Transactions.msg](#)

---

Hi Keith, More stuff on Bitcoins with a short deadline to look at draft written by NTA. Looks like 7 days to respond to accuracy of NTA's writeup. Brinton is looking at this too.

Have a good weekend!

---

**From:** Feldman Janice R  
**Sent:** Friday, September 06, 2013 3:33 PM  
**To:** Welsh Donna J  
**Cc:** Fahey Douglas A; Warren Brinton T; Wall Judith M  
**Subject:** RE: Most Serious Problems

---

**From:** Welsh Donna J  
**Sent:** Friday, September 06, 2013 2:59 PM  
**To:** Feldman Janice R  
**Cc:** Fahey Douglas A; Warren Brinton T; Wall Judith M  
**Subject:** RE: Most Serious Problems

Hi Janice, What is due in 7 days? And what is due in 30 days?

---

**From:** Wall Judith M  
**Sent:** Friday, September 06, 2013 2:21 PM  
**To:** Fahey Douglas A; Welsh Donna J  
**Cc:** Keyso Jr. Andrew J; Feldman Janice R  
**Subject:** RE: Most Serious Problems

Donna/Doug,

Janice Feldman is the contact in my office. We normally don't need to be involved. But if you need our assistance with respect to process or anything else, please let us know. If you need extensions for the 7 day or 30 day deadlines, please let Nicole Elliott know.

Normally, the "lead" is with one of the ODs. Because the only recommendation in this MSP related to guidance, Nicole decided the lead should be counsel.

Judy Wall  
Special Counsel (National Taxpayer Advocate)  
Office of Chief Counsel  
CC:NTA Suite 3047  
202-622-8131  
202-622-5065 (fax)  
Effective October 2013: 202-317-4128

---

**From:** Keyso Jr. Andrew J

**Sent:** Thursday, September 05, 2013 1:43 PM  
**To:** Wall Judith M  
**Cc:** Fahey Douglas A; Welsh Donna J  
**Subject:** FW: Most Serious Problems

Judy, as we've discussed previously, Doug Fahey and Donna Welsh are the primary contacts for ITA.

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**From:** Sterner Christopher B  
**Sent:** Thursday, September 05, 2013 1:31 PM  
**To:** Wall Judith M  
**Cc:** Sterner Christopher B; Elliott Nicole M; Keyso Jr. Andrew J  
**Subject:** FW: Most Serious Problems

Judy, this has been assigned to ITA. Please coordinate as necessary. Thanks.

---

**From:** Sterner Christopher B  
**Sent:** Thursday, September 05, 2013 1:27 PM  
**To:** Elliott Nicole M  
**Cc:** Sterner Christopher B; Wall Judith M  
**Subject:** RE: Most Serious Problems

Judy Wall usually coordinates Counsel's responses to MSPs, so feel free to contact her on future matters. I think we will assign this one to ITA, but I am looking into it and will let you know.

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]  
**Sent:** Thursday, September 05, 2013 12:59 PM  
**To:** Sterner Christopher B  
**Subject:** Most Serious Problems

Chris: I have been charged with coordinating the response to the MSPs. The first one just came through on digital currency triggering the 7 and 30 day window. I think counsel needs to own this MSP as the problem and recommendations deal with the lack and need of guidance. I will need some help figuring out precisely who in counsel I need to be talking to – both with this particular MSP and in general. I hope you can help. MSP on digital currency is attached.

Nicole M. Elliott  
(202) 927-9588

**From:** Blanchard William E  
**To:** Walli Karl - OTP; Fahey Douglas A; Welsh Donna J; Rogers John W III; Dubert Alexa T  
**Subject:** FW: New York may offer virtual currency regulations this year | Reuters  
**Date:** Thursday, January 30, 2014 6:00:32 PM

---

-----Original Message-----

From: Horn Sharon Y  
Sent: Thursday, January 30, 2014 10:23 AM  
To: Blanchard William E  
Subject: New York may offer virtual currency regulations this year | Reuters

You may have seen this already but if not --

<http://www.reuters.com/article/2014/01/28/usa-bitcoin-newyork-idUSL2N0L211420140128>

**From:** [Berman Samuel](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Travers Thomas J](#); [Pinsky Ronald D](#)  
**Subject:** FW: Nextgov Mobility -- April 10, 2013  
**Date:** Wednesday, April 10, 2013 1:42:14 PM

---

Donna,

This is FYI. I think someone gave good us some press on reporting gains on the sale of bitcoins. See this article. <http://www.nextgov.com/emerging-tech/2013/04/why-bitcoin-millionaires-could-accidentally-become-tax-felons/62397/?pref=ng-relatedstories>

Note the warning in the last paragraph that bitcoin transactions can be traced. This is a link to the full article (with a picture of our downtown building). <http://qz.com/72637/why-bitcoin-millionaires-could-accidentally-become-tax-felons/>

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (202) 283-0434  
Fax: (202) 283-0557

---

**From:** Gillen Duane M [<mailto:Duane.Gillen@irs.gov>]  
**Sent:** Wednesday, April 10, 2013 12:07 PM  
**To:** Berman Samuel  
**Subject:** FW: Nextgov Mobility -- April 10, 2013

Fyi

(b)(5)

*Duane Gillen*  
Phone 202-283-0701  
Cell Phone 202-641-8548  
SB/SE Director Abusive Transactions and Technical Issues

**From:** Tracht Mark A  
**Sent:** Wednesday, April 10, 2013 11:38 AM  
**To:** Larsen Eric R  
**Cc:** Gillen Duane M; Grimes Patricia L; Ronk Alice L  
**Subject:** FW: Nextgov Mobility -- April 10, 2013

See the link below to Bitcoins.

Looks like the value is growing and there could be capital gain issues.

Eric - your thoughts?

MT

---

**From:** Nextgov.com newsletters [<mailto:news@get.govexec-media.com>]  
**Sent:** Wednesday, April 10, 2013 3:33 AM  
**To:** Tracht Mark A



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[VIEW AS A WEB PAGE](#)

**TECHNOLOGY AND THE BUSINESS OF GOVERNMENT**

**April 10, 2013**

**Editor's Note:** Welcome to the first issue of the Nextgov Mobility newsletter. Mobility has become a significant force across government as federal agencies develop mobile apps to better serve citizens and also seek to allow their own employees to work and stay productive no matter where they are. The increased emphasis on mobility has raised new issues for agencies, such as developing security policies in a bring-your-own-device world. [Sign up for this free weekly newsletter to keep up with the latest trends in mobility.](#)

## TOP STORIES

### Paper Records Can Be Tracked Too

By Joseph Marks

The Education Department is considering a radio monitoring system for documents it can't yet digitize. ...[FULL ARTICLE](#)

### Yes, People Are Hoarding Bitcoins

By Zachary M. Seward

The total value of outstanding bitcoins surpassed \$2 billion today, up by about 1,300% since the beginning of the year. ...[FULL ARTICLE](#)

### Consider the BlackBerry Z10, a Smart Fish in an Ocean of Smartphones

By Rebecca Greenfield

A review of BlackBerry's new mobile offering ...[FULL ARTICLE](#)

### You're Not Really Following @BarackObama on Twitter

By Philip Bump

The account is now in the hands of a non-partisan, not-for-profit group. ...[FULL ARTICLE](#)

## 4 Important Trends on the Horizon in Cybersecurity

Cybersecurity is increasingly becoming a top priority across government. Hackers have political motives and attacks are rising every year. In this report, get the updates you need to know on the future of cybersecurity, including:

- Next-Generation Firewalls
- Internal Tracking
- Public-Private Partnerships

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### Medicine by Text Message: Learning From the Developing World

By Courtney E. Martin

Health communication systems designed for rural, developing countries -- where hospitals are often

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The key differentiators that set AT&T Mobile Security apart are the **network-based application monitoring, traffic inspection, authentication and access control functions.** These allow organizations to apply the same security policies to mobile devices that they already apply to desktop or laptop traffic.

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understaffed and transportation is inadequate -- are being adapted to improve care in U.S. cities. ...[FULL ARTICLE](#)

• **How Smartphones Could Revolutionize the Way We Heat and Cool Our Homes**

By Sophie Quinton

Customers could run their appliances and manage their utilities from their mobile devices, cutting down on power use. ...[FULL ARTICLE](#)

• **The First Mobile Phone Call Was Made 40 Years Ago Today**

By Zachary M. Seward

Motorola employee Martin Cooper made the first call in 1973. ...[FULL ARTICLE](#)

• **Pentagon Uses Online Tools to Enhance Collaboration and Cut Travel Costs**

By Stephen Seidel and Jason Ye

The number of registered users has jumped 700 percent to over 700,000 users. ...[FULL ARTICLE](#)

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AT&T Mobile Security provides an end-to-end security service for organizations with mobile device users. It provides end point protection through Anti-Virus and Anti-Malware supporting major mobile operating systems, and implements core mobile device management functions.

The key differentiators that set AT&T Mobile Security apart are the **network-based application monitoring, traffic inspection, authentication and access control functions**. These allow organizations to apply the same security policies to mobile devices that they already apply to desktop or laptop traffic.

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Government Executive Media Group 600 New Hampshire Avenue, NW Washington, DC 20037

**From:** [Welsh Donna J](#)  
**To:** [Moriarty John P](#)  
**Subject:** FW: Notice 2014-21 conference call with HSGA  
**Date:** Thursday, March 27, 2014 4:10:15 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

---

Hi John, Fyi...tomorrow's meeting is at 3:30 on Bitcoin. I will send you the invite.

---

**From:** Shepherd Sara P [<mailto:Sara.P.Shepherd@irs.gov>]  
**Sent:** Thursday, March 27, 2014 2:41 PM  
**To:** Fahey Douglas A; Welsh Donna J  
**Cc:** Keyso Jr. Andrew J  
**Subject:** Notice 2014-21 conference call with HSGA

Doug and Donna,

I spoke with John Collins today and got a sense of what he'll be asking during tomorrow's conference call.

- 1 - what's the process for future guidance, whether the guidance is "static", whether the rules will evolve and whether there will be a chance for public comment.
- 2 - whether a de minimis rule like the one that exists for foreign currency would ever come into play for virtual currency
- 3 - whether/how taxpayers are expected to track the source of their bit coin for purposes of determining taxable gain. He gave the example of a taxpayer buying bit coin at \$100 and then again at \$200 and later purchasing something for \$150 in bit coin. (John said that he's not a tax attorney and would like to be baby-stepped thru this)
- 4 - See email below. He believes that Notice 2014-21 is inconsistent with FinCEN guidance. John said that he would also be reaching out to FinCEN with this question.

Thanks for doing the conference call tomorrow, Sara

Sara P. Shepherd, J.D., LL.M. (Tax)  
Legislative Counsel  
Internal Revenue Service  
Tel: 202-317-4231 (\*new\*)

---

**From:** Collins, John (HSGAC) [[mailto:John\\_Collins@hsgac.senate.gov](mailto:John_Collins@hsgac.senate.gov)]  
**Sent:** Thursday, March 27, 2014 2:11 PM  
**To:** Shepherd Sara P  
**Subject:** Question re: FinCEN guidance

The FinCEN guidance issued last year states, "In contrast to real currency, **"virtual" currency is a medium of exchange that operates like a currency in some environments**, but does not have all the attributes of real currency."

The IRS guidance doesn't to reflect Treasury's previous definition of virtual currency and how it

functions. The reporting requirements for the current IRS guidance would not seem to allow for the operation of digital currency as currency in any “real life” environment.

Thanks Sara!

**John G. Collins**

*Senior Professional Staff Member*

*U.S. Senate Committee on Homeland Security and Governmental Affairs*

*Phone: (202) 224-4241*

*Fax: (202) 228-3792*

***Connect with Chairman Carper online:***



[hsgac.senate.gov](http://hsgac.senate.gov)



**From:** [Fahey Douglas A](#)  
**To:** [Moriarty John P](#)  
**Subject:** FW: Notice 2014-21 conference call with HSGA  
**Date:** Thursday, March 27, 2014 3:01:47 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

---

FYI

**Doug Fahey**  
**202.317.4619**

---

**From:** Shepherd Sara P [<mailto:Sara.P.Shepherd@irs.gov>]  
**Sent:** Thursday, March 27, 2014 2:41 PM  
**To:** Fahey Douglas A; Welsh Donna J  
**Cc:** Keyso Jr. Andrew J  
**Subject:** Notice 2014-21 conference call with HSGA

Doug and Donna,

I spoke with John Collins today and got a sense of what he'll be asking during tomorrow's conference call.

- 1 - what's the process for future guidance, whether the guidance is "static", whether the rules will evolve and whether there will be a chance for public comment.
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Thanks for doing the conference call tomorrow, Sara

Sara P. Shepherd, J.D., LL.M. (Tax)  
Legislative Counsel  
Internal Revenue Service  
Tel: 202-317-4231 (\*new\*)

---

**From:** Collins, John (HSGAC) [<mailto:John.Collins@hsgac.senate.gov>]  
**Sent:** Thursday, March 27, 2014 2:11 PM  
**To:** Shepherd Sara P  
**Subject:** Question re: FinCEN guidance

The FinCEN guidance issued last year states, "In contrast to real currency, **"virtual" currency is a medium of exchange that operates like a currency in some environments**, but does not have all

**From:** [Aqui Keith A](#)  
**To:** [Stahl Raymond J](#); [Griffin Adrienne E](#); [Shepherd Neil D](#); [Erwin Mark E](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment  
**Date:** Wednesday, March 11, 2015 12:25:00 PM

---

IT&A plans to attend the meeting. Would you or a representative be available?  
Thanks.

---

**From:** Welsh Donna J  
**Sent:** Monday, March 09, 2015 5:48 PM  
**To:** Keyso Jr. Andrew J  
**Cc:** Montemurro Michael J; Aqui Keith A  
**Subject:** RE: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Hi Andy, The California Bar would like to have a Counsel participant meet on May 4 with them to discuss taxation of virtual currency. They will prepare a paper on the topic and would like to discuss their written views with Counsel. I would like to meet with them if you agree. [REDACTED]

(b)(6)

(b)(6)

Thanks!

---

**From:** Aqui Keith A  
**Sent:** Monday, March 09, 2015 11:39 AM  
**To:** Welsh Donna J  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

FYI

---

**From:** Johnson LaTashia M  
**Sent:** Monday, March 09, 2015 11:36 AM  
**To:** Aqui Keith A  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

See below

---

**From:** staff [<mailto:staff@gazfinancial.com>]  
**Sent:** Friday, March 06, 2015 3:39 PM  
**To:** Notice Comments  
**Subject:** Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Hello,

I have been drafting a paper with respect to aspects of tax treatment of virtual currencies, specifically bitcoin. This paper is for the annual D.C. Bar Delegation in early May for the Tax Sections

of the California State Bar and the Los Angeles County Bar Association (LACBA). Our meeting with the IRS is Monday, May 4 at 9 or 10AM. Is it possible to get someone at the IRS who took part in drafting Notice 2014-21 to attend?

Thank you.

*Regards,*

*Paul McCullum, J.D.*

ZLO | Zbylut Law Office  
GAZ | GAZ Financial Services  
121 West Lexington Drive  
Suite 202  
Glendale, CA 91203  
P | (818) 480-3280  
F | (626) 737-9637  
E | [staff@gazfinancial.com](mailto:staff@gazfinancial.com)  
W| [www.gazfinancial.com](http://www.gazfinancial.com)

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Notice on virtual currency  
**Date:** Friday, March 21, 2014 3:54:59 PM

---

FYI

---

**From:** Khoury Mireille  
**Sent:** Friday, March 21, 2014 3:29 PM  
**To:** Fahey Douglas A  
**Cc:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); Corwin Erik H; Hartford Susan L  
**Subject:** RE: Notice on virtual currency

Doug:

This is cleared for the Commissioner's office. Please pick up the package in room 3014.

Thanks,  
Mireille

---

**From:** Fahey Douglas A  
**Sent:** Thursday, March 20, 2014 5:19 PM  
**To:** Khoury Mireille  
**Cc:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Notice on virtual currency

Mireille – Erik has approved the attached notice on virtual currency for the Chief Counsel so I'm forwarding it to you for review and approval for the CIR. I will leave some hard copies for you in room 3308. Let me know if you need anything else.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: NYTimes.com: Into the Bitcoin Mines  
**Date:** Monday, December 23, 2013 10:49:10 AM

---

FYI. Wow.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Dinwiddie Scott K  
**Sent:** Monday, December 23, 2013 10:12 AM  
**To:** Fahey Douglas A  
**Subject:** FW: NYTimes.com: Into the Bitcoin Mines

Link to Bitcoin mining article below.

**Scott K. Dinwiddie**

Special Counsel (IT&A)  
Room 4052 CC:ITA  
202-317-4624

---

**From:** [emailthis@ms3.lga2.nytimes.com](mailto:emailthis@ms3.lga2.nytimes.com) [<mailto:emailthis@ms3.lga2.nytimes.com>]  
**Sent:** Saturday, December 21, 2013 11:19 PM  
**To:** Dinwiddie Scott K  
**Subject:** NYTimes.com: Into the Bitcoin Mines



---

This page was sent to you by:



(b)(6)

LATEST NEWS | December 21, 2013

**DEALBOOK: Into the Bitcoin Mines**

BY NATHANIEL POPPER

In a bunker in Iceland, powerful computers are whirring 24 hours a day “  
and extracting an invisible currency.

---

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**From:** [Moriarty John P](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies  
**Date:** Friday, February 07, 2014 12:29:00 PM

---

Who did the homeland committee reach out to when requesting this meeting?

---

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Friday, February 07, 2014 12:21 PM  
**To:** Welsh Donna J  
**Cc:** Fahey Douglas A; Arterton Cameron; Faiza.Khan@treasury.gov; Shepherd Sara P; Ahmed.Bhadelia@treasury.gov; Keyso Jr. Andrew J; Moriarty John P  
**Subject:** Pre-Call --Conference call with HSGA about IRS treatment of digital currencies

Hello all. We didn't settle who was going to lead the call on Monday. I'd like to suggest that Andy do that.

Andy, given that you weren't on the pre-call, it would be great if we could talk briefly before on Monday (before 10:30) or anytime today (I realize you are out of the office, but thought you might check bb). My number is below.



(b)(5)

Please let me know if anyone has any other questions.

**Rochelle Hodes**  
Office of Tax Policy  
Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, D.C. 20220  
Phone 202.622.1787  
[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Press materials  
**Date:** Monday, March 24, 2014 9:37:01 AM

---

FYI

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Sunday, March 23, 2014 6:42 PM  
**To:** Keyso Jr. Andrew J; Fahey Douglas A  
**Subject:** Re: Press materials

I will get the approval doc to you in am. Looking to release Tues afternoon.

---

**From:** Keyso Jr. Andrew J [<mailto:Andrew.J.KeysoJr@irscounsel.treas.gov> ]  
**Sent:** Friday, March 21, 2014 05:49 PM  
**To:** Hodes, Rochelle; Fahey, Douglas A  
**Subject:** RE: Press materials

We're waiting for formal approval from you, but we're also anticipating that this is not going out tonight, right? I'm assuming Monday morning is the new target for release of everything?

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov> ]  
**Sent:** Friday, March 21, 2014 5:48 PM  
**To:** Fahey Douglas A  
**Cc:** Keyso Jr. Andrew J  
**Subject:** Re: Press materials

Thanks. The awkward sentence is lifted directly from the notice. The question on the talkers is really for commkr side to answer I guess.

Thanks.

So, are you waiting for formal approval for us on the notice?

---

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irscounsel.treas.gov> ]  
**Sent:** Friday, March 21, 2014 05:37 PM  
**To:** Hodes, Rochelle  
**Cc:** Keyso Jr., Andrew J  
**Subject:** RE: Press materials

(b)(5)

The roll out is out of scope for us.

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]

**Sent:** Friday, March 21, 2014 4:59 PM

**To:** Fahey Douglas A; Keyso Jr. Andrew J

**Subject:** Press materials

Doug/Andy—attached are press materials that we marked up (these are clean versions (except for the edit in the IR from our PA person based on anticipated reporter questions) because the changes were quite extensive) and that our Public Affairs folks are planning to send to their front office. Please make sure that Counsel is ok with these. I believe that our Public Affairs folks will be coordinating with IRS Public Affairs folks, but not sure.

**Rochelle Hodes**

Office of Tax Policy

Department of the Treasury

1500 Pennsylvania Ave., NW

Washington, D.C. 20220

Phone 202.622.1787

[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)



**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Press materials  
**Date:** Friday, March 21, 2014 5:11:22 PM  
**Attachments:** [031114Bitcoin - Rollout.rlh.docx](#)  
[Virtual Currency Talkers 032014.doc](#)  
[IR-2014-21-Virtual Currency - ed edits.doc](#)

---

FYI.

---

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Friday, March 21, 2014 4:59 PM  
**To:** Fahey Douglas A; Keyso Jr. Andrew J  
**Subject:** Press materials

Doug/Andy—attached are press materials that we marked up (these are clean versions (except for the edit in the IR from our PA person based on anticipated reporter questions) because the changes were quite extensive) and that our Public Affairs folks are planning to send to their front office. Please make sure that Counsel is ok with these. I believe that our Public Affairs folks will be coordinating with IRS Public Affairs folks, but not sure.

**Rochelle Hodes**  
Office of Tax Policy  
Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, D.C. 20220  
Phone 202.622.1787  
[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: Property definition  
**Date:** Thursday, August 08, 2013 1:16:15 PM

---

---

**From:** Ravichandran Arvind  
**Sent:** Tuesday, August 06, 2013 2:55 PM  
**To:** Welsh Donna J  
**Subject:** Property definition

Donna,

The regs on "qualified production property" define QPP to include computer software, which is defined as:

**(3) Computer software--(i) In general.** The term computer software means any program or routine or any sequence of machine-readable code that is designed to cause a computer to perform a desired function or set of functions, and the documentation required to describe and maintain that program or routine. Thus, for example, an electronic book available online or for download is not computer software. For purposes of this paragraph (j)(3), computer software also includes the machine-readable code for video games and similar programs, for equipment that is an integral part of other property, and for typewriters, calculators, adding and accounting machines, copiers, duplicating equipment, and similar equipment, regardless of whether the code is designed to operate on a computer (as defined in [section 168\(j\)\(2\)\(B\)](#)). Computer programs of all classes, for example, operating systems, executive systems, monitors, compilers and translators, assembly routines, and utility programs, as well as application programs, are included. Except as provided in paragraph (j)(5) of this section, if the medium in which the software is contained, whether written, magnetic, or otherwise, is tangible, then such medium is considered tangible personal property for purposes of this section.

See Treas. Reg. 1.199-3(j).

(b)(5)

-Arvind

**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** FW: Public Comments (Notice 2014-21).zip  
**Date:** Thursday, March 27, 2014 12:38:00 PM  
**Attachments:** [Public Comments \(Notice 2014-21\).zip](#)

---

Two comments: (1) on the effective date of the Notice – no telephone number included, and (2) tax consequences of donating Bitcoin.

Should we respond by e-mail on the effective date? Thanks.

---

**From:** Johnson Regina L  
**Sent:** Thursday, March 27, 2014 12:13 PM  
**To:** Aqui Keith A  
**Cc:** Franks Martin  
**Subject:** Public Comments (Notice 2014-21).zip

**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#)  
**Subject:** FW: Public Comments (Notice 2014-21).zip  
**Date:** Wednesday, March 26, 2014 10:40:00 AM  
**Attachments:** [Public Comments \(Notice 2014-21\).zip](#)

---

FYI.

---

**From:** Johnson Regina L  
**Sent:** Wednesday, March 26, 2014 9:45 AM  
**To:** Aqui Keith A  
**Cc:** Franks Martin  
**Subject:** Public Comments (Notice 2014-21).zip

**Regina L. Johnson**

**Legal Assistant**

**CC:PA:LPD:PR**

**Room 5207**

**202-317-5177**

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** FW: Regulation of Bitcoin in Selected Jurisdictions  
**Date:** Wednesday, February 05, 2014 3:05:11 PM  
**Attachments:** [SecureZIP Attachments.zip](#)

---

Fyi...

---

**From:** Utzke David J [mailto:[David.Utzke@irs.gov](mailto:David.Utzke@irs.gov)]  
**Sent:** Tuesday, February 04, 2014 1:19 PM  
**To:** Berman Samuel  
**Cc:** Carter Kareem A; Welsh Donna J; Edelman Edward M; Stone Christine  
**Subject:** Regulation of Bitcoin in Selected Jurisdictions

Sam,

Attached is a report released today by the Senate Cmte on Homeland Security and Government Affairs exploring the legal status of virtual currencies in 40 countries.

*David J Utzke*, PhD, MAFF, CFE, CFI, CESA  
International Technical Specialist, Offshore Compliance, IIC, LB&I  
Phone: 626.927.1237  
Fax: 855.702.8175

**From:** [Montemurro Michael J](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Release of Notice 2014-21 - Virtual Currency  
**Date:** Tuesday, March 25, 2014 2:22:17 PM  
**Attachments:** [Notice 2014-21 3-25-14 CLEAN.docx](#)  
[IR-2014-21-Virtual Currency.doc](#)

---

Keith/Donna — Congratulations on the publication of this important guidance on a significant matter!

Michael J. Montemurro  
CC:ITA:4 – ☎ : 202.317-4744  
Rm. 4243 (enter room 4241)

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, March 25, 2014 2:18 PM  
**To:** &ITA Legal; &NO-All ACC and DACC; &NO-All Division Counsel; Berman Samuel; Corwin Erik H; Sterner Christopher B; Wilkins William J; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Milnes-Vasquez Marie C; Shepherd Sara P; Rochelle.Hodes@treasury.gov  
**Subject:** Release of Notice 2014-21 - Virtual Currency

This afternoon Media Relations released Notice 2014-21, which describes how existing general tax principles apply to transactions using virtual currency, such as Bitcoin.

Notice 2014-21 and the accompanying news release are attached.

Doug Fahey  
202.317.4619

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#); [Fahey Douglas A](#)  
**Subject:** FW: Royal Canadian Mint puts Mintchip digital currency up for sale  
**Date:** Tuesday, April 08, 2014 2:31:01 PM

---

Fyi...

-----Original Message-----

From: Utzke David J [<mailto:David.Utzke@irs.gov>]  
Sent: Tuesday, April 08, 2014 2:02 PM  
To: Edelman Edward M; Carter Kareem A; Berman Samuel; Welsh Donna J; Eblen Mark D  
Cc: Griesbach David  
Subject: Royal Canadian Mint puts Mintchip digital currency up for sale

"The Royal Canadian Mint has made great progress in advancing the MintChip concept as an innovative, cost effective and secure digital cash solution," the company's Christine Aquino told NFC World. "As MintChip's research and development efforts have matured at the Mint, the Government of Canada has moved the project to its natural next steps, including moving further development and commercialization to the private sector.

We'll have to watch this one to see where it goes.

David J Utzke, PhD, MAFF, CFE, CFI, CESA  
International Technical Specialist, Offshore Compliance, IIC, LB&I

Phone: 626.927.1237

Fax: 855.702.8175

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: Senate Homeland Security and Government Affairs Committee  
**Date:** Tuesday, August 20, 2013 12:07:18 PM

---

Hi there, I don't know if you have seen this or not.

---

**From:** Shepherd Neil D  
**Sent:** Wednesday, August 14, 2013 12:59 PM  
**To:** Welsh Donna J  
**Cc:** Cook Janine; Camillo Lynne A; Carlino Paul J; Munroe David; Shepherd Neil D  
**Subject:** Senate Homeland Security and Government Affairs Committee

Greetings, Donna. Evidently, the Senate Homeland Security and Government Affairs Committee on Monday sent letters to several agencies [including the Department of the Treasury] requesting that "they disclose their virtual currency policies, how they developed them, how agencies are coordinating and finally what they plan to do going forward." See the attached link. I couldn't find the letter on the internet, but whoever is coordinating our efforts with main Treasury should know about it--if they don't already. We don't want to be freelancing on this thing.

Many thanks.

<http://www.politico.com/story/2013/08/congress-starts-looking-into-bitcoin-95464.html>



**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: Tax Notes Today Article: After March IRS Notice, Bitcoin Users Await More Tax Guidance  
**Date:** Monday, September 08, 2014 11:01:42 AM  
**Attachments:** [bitcoin guidance TNT 9-2-14.pdf](#)

---

Fyi...

---

**From:** Berman Samuel  
**Sent:** Tuesday, September 02, 2014 9:14 AM  
**To:** Gillen Duane M  
**Cc:** Edelman Edward M; Ronk Alice L; Welsh Donna J; Thomas Thomas R (Division Counsel); Moe Debra K  
**Subject:** Tax Notes Today Article: After March IRS Notice, Bitcoin Users Await More Tax Guidance

Duane,

This article has only good things to say about the IRS notice on the tax treatment of virtual currency transactions. As the title suggests, it states a need for more guidance.

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

**From:** [Corwin Erik H](#)  
**To:** [Keyso Jr. Andrew J](#)  
**Subject:** FW: Taxation of Bitcoin Transactions  
**Date:** Friday, January 31, 2014 11:23:57 AM  
**Attachments:** [Bitcoin\\_JTaxFinProd.pdf](#)

---

Fyi – haven't read it myself.

---

**From:** Milnes-Vasquez Marie C  
**Sent:** Thursday, January 30, 2014 4:45 PM  
**To:** Corwin Erik H  
**Subject:** FW: Taxation of Bitcoin Transactions

Erik –

Kristi sent over this article. I also have it in hardcopy for you.

**Marie**  
202-317-4105

---

**From:** Crabtree Kristine A  
**Sent:** Thursday, January 30, 2014 1:36 PM  
**To:** Milnes-Vasquez Marie C  
**Cc:** Shepherd Neil D  
**Subject:** FW: Taxation of Bitcoin Transactions

Marie,

Just FYI, another article on bitcoin to peruse before the group comes back to talk to Erik again this spring.

Kristi Crabtree  
CC:INTL:Br2  
202-317-4998

---

**From:** Shepherd Neil D  
**Sent:** Thursday, January 30, 2014 12:45 PM  
**To:** Crabtree Kristine A  
**Cc:** Cook Janine; Camillo Lynne A; Shepherd Neil D  
**Subject:** Taxation of Bitcoin Transactions

Awesome, Kristi. Have you shared the article with others? I searched Westlaw's law review article data base last night and didn't see this article in it (not surprisingly, given the publication). It isn't available on our library's website either.

Many thanks and good catch.

---

**From:** Crabtree Kristine A  
**Sent:** Thursday, January 30, 2014 8:33 AM  
**To:** Shepherd Neil D

**Subject:** bitcoin article

Hi Neil,

I am no longer on detail to Mr. Corwin, but saw this bitcoin article and thought you might want it.

Best Regards,

Kristi

Kristine A. Crabtree  
Attorney, IRS Office of Chief Counsel (International)  
202-317-4998

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: Taxing Bitcoin: New Avalara feature helps companies deal in digital currency  
**Date:** Thursday, May 08, 2014 2:31:20 PM

---

Fyi...

---

**From:** Utzke David J [mailto:David.Utzke@irs.gov]  
**Sent:** Thursday, May 08, 2014 1:38 PM  
**To:** Edelman Edward M; Berman Samuel; Carter Kareem A; Welsh Donna J  
**Subject:** Taxing Bitcoin: New Avalara feature helps companies deal in digital currency

Avalara has added Bitcoin to the roster of currencies it can handle with its cloud-based AvaTax suite of sales tax compliance software. The new Bitcoin features will help companies calculate and account for taxes on Bitcoin as if it were any other currency.

The announcement this morning is being touted by Avalara as a first for the industry. The move by the Seattle-area company could create a smoother path to Bitcoin adoption for companies interested in accepting payment and conducting other transactions in the cryptocurrency.

*David J Utzke*, PhD, MAFF, CFE, CFI, CESA  
International Technical Specialist,  
Offshore Compliance, IIC, LB&I  
Phone: 626.927.1237  
Fax: 855.702.8175

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: Taxing Virtual Currencies: IRS Review Has Big Implications For Investors In Virtual Currency  
**Date:** Wednesday, January 08, 2014 4:55:12 PM

---

Fyi...

---

**From:** Edelman Edward M [mailto:Edward.M.Edelman@irs.gov]  
**Sent:** Wednesday, January 08, 2014 4:42 PM  
**To:** Utzke David J; Kiger Cheryl R  
**Cc:** Stone Christine; Karavitis Roula; Nicholls Lori J; Peraza Lilia R; Huang Jeff J; Bray Patricia A; Skutley Michael R; Welsh Donna J; Driscoll Robert G; Schenck Carolyn A; Eblen Mark D; Carter Kareem A; Choi Eunice  
**Subject:** RE: Taxing Virtual Currencies: IRS Review Has Big Implications For Investors In Virtual Currency

David,



(b)(5)

I have included everyone on the OA IPN Virtual Currency Issue Team in this response so they can read the Forbes Article highlights you included below in preparation for and as a reminder of our Virtual Currency Issue Team's first call on Wednesday, January 15, 2014 at 8:00 A.M. Pacific Time (11:00 A.M. Eastern; 10:00 Central).

Call-In



(b)(7)(E)

**Eddie Edelman**  
Technical Specialist

LB & I International Individual Compliance  
6230 Van Nuys Blvd., 1st Floor  
Van Nuys, California 91401-2780  
Office (Desk): 818-779-3646  
Cell: 818-261-0865  
[IIC Offshore Arrangements IPN](#)  
[IIC Jurisdiction To Tax-Outbound IPN](#)

---

**From:** Utzke David J  
**Sent:** Wednesday, January 08, 2014 1:09 PM  
**To:** Kiger Cheryl R  
**Cc:** Edelman Edward M; Stone Christine  
**Subject:** Taxing Virtual Currencies: IRS Review Has Big Implications For Investors In Virtual Currency

Following are excerpts from a *Forbes* article published yesterday regarding the vacuum of tax guidance being provided by the IRS on the treatment of virtual currency. The article does not disclose who its IRS source is; however, following is a quote from an article I found by a journalist named Laura Saunders with *Barrons* providing a quote from an IRS spokesperson on 12.20.2013, which parallels this *Forbes* article:

So far, the Internal Revenue Service hasn't ruled on or addressed such issues directly. An agency spokesman released the following statement: "The IRS continues to study virtual currencies and intends to provide some guidance on the tax consequences" of transactions involving them. The agency is also "aware of the potential tax compliance risks posed by virtual currencies," he added.

Among the pressing issues: When should bitcoin be considered a commodity, a currency or a capital asset for tax purposes? Are bitcoin transactions similar to barter? Is bitcoin subject to the same stringent tax rules as secret offshore accounts? And how will U.S. officials keep bitcoin, which is even more anonymous than cash, from being used to promote tax evasion or money laundering?

Also up in the air: whether offshore-account reporting rules apply to bitcoin. A spokesman for FinCEN says this question is "under consideration and will be made in consultation with the IRS," but it's unclear when.

"The IRS could face a bigger headache if bitcoin and its kin replace tax havens as the venue of choice for tax evaders," Mr. Marian (a professor of law at the University of Florida) says. Virtual currencies possess the traditional benefits of tax havens: anonymity and no tax. With rules now taking effect are putting pressure on governments and financial institutions to end offshore tax evasion, virtual currencies pose a threat to this recent success because they don't depend on banks or governments.

Mr. Marian says that he and many other specialists are "stumped" as to how the IRS will rule on Bitcoin. He says his own sense is that it's a commodity similar to gold, because there's a finite supply and it's a store of value. He adds that some Bitcoin transactions may be analogous to barter—which has its own tricky tax rules.

### **Forbes article highlights**

Bitcoin is usually described as virtual currency. That's useful shorthand, but is it really money? And should it be taxed as if it is? Or is it a capital asset? How about a commodity? And then there is the matter of using this quasi-cash to avoid taxes and regulation altogether.

The IRS says it is studying the matter but has yet to issue any guidance. Until it does, it is anyone's guess how Bitcoin should be taxed. Most users/investors will simply pick what is most beneficial to them when they file their 2013 returns.

Curiously, the motivating force for the IRS to issue guidance may be an effort by Cameron and Tyler Winklevoss (best known until now for their legal battle with Mark Zuckerberg over Facebook) to create an exchange-traded fund to track Bitcoin prices. The twins are awaiting SEC approval for their ETF but their very request raises important tax policy questions that need to be answered.

Back in November, Mindi Lowy and Miriam Abraham of PriceWaterhouseCoopers wrote a terrific review of the current state of play for *Tax Notes Today* (requires a subscription). They concluded that for now virtual currency would probably be viewed as a capital asset... However, should these vehicles gain wider commercial acceptance, they'd more likely be treated as actual currency for tax and regulatory purposes.

If Bitcoin is a capital asset (the Winklevoss ETF would treat it that way), long-term gains

and losses would be subject to preferential capital gains rates (23.8 percent for high-income taxpayers). What if Bitcoin is a currency for tax purposes, the same as, say a euro? In that case, profits from sales would be taxed as ordinary income, with a top rate of 39.6 percent... .

Then there is the matter of using virtual currency to avoid all tax—as well as other laws. Last Thursday, the *Wall Street Journal's* Danny Yadron wrote a fascinating piece about Cody Wilson, the guy who made himself famous by posting online instructions for making plastic guns from 3-D printers. Wilson says he is working on software called Dark Wallet that would defeat the government's ability electronically track Bitcoin transactions.

But virtual currency isn't likely to go away. It would be useful if users didn't have to guess at its tax treatment.

*David J Utzke*, PhD, MAFF, CFE, CFI, CESA

International Technical Specialist, Offshore Compliance, IIC, LB&I

Phone: 626.927.1237

Fax: 855.702.8175

**From:** [Fahey Douglas A](#)  
**To:** [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Subject:** FW: The Digital Wallet Revolution - NYTimes.com  
**Date:** Thursday, September 11, 2014 11:36:00 AM

---

Interesting article.

Doug Fahey  
202.317.4619

-----Original Message-----

From: [Aqui Keith A](#)  
Sent: Thursday, September 11, 2014 11:24 AM  
To: [Fahey Douglas A](#); [Welsh Donna J](#)  
Subject: The Digital Wallet Revolution - NYTimes.com

<http://www.nytimes.com/2014/09/11/opinion/the-digital-wallet-revolution.html?smid=nytcore-iphone-share&smprod=nytcore-iphone&r=0>



**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Virtual Currencies FAQs  
**Date:** Tuesday, February 25, 2014 11:50:42 AM

---

FYI

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, February 25, 2014 11:25 AM  
**To:** Patterson Dean J; Keyso Jr. Andrew J  
**Cc:** Friedland Bruce I; Smith Eric L  
**Subject:** RE: Virtual Currencies FAQs

Yes, I think it's possible.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Patterson Dean J [<mailto:Dean.J.Patterson@irs.gov>]  
**Sent:** Tuesday, February 25, 2014 11:14 AM  
**To:** Fahey Douglas A; Keyso Jr. Andrew J  
**Cc:** Friedland Bruce I; Smith Eric L  
**Subject:** FW: Virtual Currencies FAQs

Hi All,

This is what we are hearing from Treasury. Please let me know if this timing is in the realm of possible.

---

**From:** Eldridge Michelle L  
**Sent:** Tuesday, February 25, 2014 11:01 AM  
**To:** Patterson Dean J  
**Cc:** Breitbeil Julianne Fisher; Lemons Terry L  
**Subject:** FW: Virtual Currencies FAQs

Hearing from Betsy that this will be ready to go out on Thursday or Friday. Dean—can you please reach out to Counsel on this one please?

Also—need to think about whether we just drop notice, or also put out short news release with it. Please review materials and come back with a recommendation once you get all the info from Counsel. Thanks. --Michelle

---

**From:** [Elizabeth.Bourassa@treasury.gov](mailto:Elizabeth.Bourassa@treasury.gov) [<mailto:Elizabeth.Bourassa@treasury.gov>]  
**Sent:** Monday, February 24, 2014 4:35 PM  
**To:** Eldridge Michelle L  
**Subject:** Virtual Currencies FAQs



**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Virtual Currencies Tax Guidance  
**Date:** Friday, March 07, 2014 2:21:23 PM

---

There have been a flurry of e-mails on this in the past couple of days. I'll forward the important ones that you weren't cc'd on.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Patterson Dean J [<mailto:Dean.J.Patterson@irs.gov>]  
**Sent:** Thursday, March 06, 2014 10:30 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Fahey Douglas A  
**Subject:** RE: Virtual Currencies Tax Guidance

Yes, both go at same time. No worries on not having final yet.

---

**From:** Keyso Jr. Andrew J [<mailto:Andrew.J.KeysoJr@irs.counsel.treas.gov>]  
**Sent:** Wednesday, March 05, 2014 5:53 PM  
**To:** Patterson Dean J  
**Cc:** Fahey Douglas A  
**Subject:** FW: Virtual Currencies Tax Guidance

Dean, see below. I'm assuming the press release that is scheduled for release Friday at 10am assumes the bitcoin guidance is also ready for release by then, right? As I indicated in my prior email, I'm hopeful we resolve the outstanding issue tomorrow morning, but I'm not positive.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, March 05, 2014 5:32 PM  
**To:** Keyso Jr. Andrew J  
**Cc:** Zarlenga Lisa (OTP)  
**Subject:** FW: Virtual Currencies Tax Guidance

Hi Andy—Just wanted to make you aware that IRS Public Affairs has scheduled a drop date for the Bitcoin Notice of Friday (see below). Don't know where we are on timing with Erik so wanted to let you know.

---

**From:** Bourassa, Elizabeth (Betsy)  
**Sent:** Wednesday, March 05, 2014 5:23 PM  
**To:** Esser, Victoria; Hodes, Rochelle; Zarlenga, Lisa; Donar, Erin  
**Subject:** Virtual Currencies Tax Guidance

All,

I just touched base with IRS on the virtual currencies tax tips, and they're planning to send the release attached to their media list this Friday at 10. I've asked IRS to send the final version of the tax guidance – I've attached the latest draft that Rochelle sent to IRS last week.

Does this timing sound appropriate? The release is very straightforward – please also review and clear. Once I have the ok from this group, we'll flag to the Front Office.

Best,  
Betsy

Public Affairs | U.S. Treasury Department | o. 202-622-6490

(b)(5)



**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** FW: Virtual currencies  
**Date:** Tuesday, August 27, 2013 3:06:23 PM

---

FYI. The IRS government liaisons for NY and California have had no contact or coordination with the state regulators that are investigating Bitcoin transactions .

Doug Fahey  
202.622.7883

---

**From:** Yau David [<mailto:David.Yau@irs.gov>]  
**Sent:** Tuesday, August 27, 2013 1:43 PM  
**To:** Kane Thomas P; Renville Gary D; McKeon Kevin B; Fahey Douglas A  
**Subject:** RE: Virtual currencies

Ditto.

---

**From:** Kane Thomas P  
**Sent:** Tuesday, August 27, 2013 10:42 AM  
**To:** Renville Gary D; McKeon Kevin B; Fahey Douglas A; Yau David  
**Subject:** RE: Virtual currencies

I have no contacts with NYS on this matter.

---

**From:** Renville Gary D  
**Sent:** Tuesday, August 27, 2013 1:14 PM  
**To:** McKeon Kevin B; Fahey Douglas A; Yau David; Kane Thomas P  
**Subject:** RE: Virtual currencies

IRS has no contact with CA agencies that any be looking into this.

*Gary Renville*

Internal Revenue Service

Privacy, Governmental Liaison and Disclosure

Governmental Liaison for California & Utah

RDAC for FEMA 9 & FEMA 10

Phone 916 974 5585

Cell 916 996 7468

Fax 916 974 5936

---

**From:** McKeon Kevin B  
**Sent:** Tuesday, August 27, 2013 9:51 AM  
**To:** Fahey Douglas A; Renville Gary D; Yau David; Kane Thomas P  
**Subject:** RE: Virtual currencies

Doug

I'm not aware of any contact with NYS regulators on this. My colleague Tom Kane is the primary GL for NYS so he may also want to respond on this. I cover NYC.

**Kevin McKeon**

**IRS Governmental Liaison serving NY Metro**

**110 W. 44 Street, New York NY 10036**

**(212) 719-6762**

---

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irs.counsel.treas.gov>]

**Sent:** Tuesday, August 27, 2013 10:27 AM

**To:** Renville Gary D; Yau David; McKeon Kevin B; Kane Thomas P

**Subject:** Virtual currencies

**Importance:** High

Recently, there has been increasing interest in virtual currencies, Bitcoins in particular. News reports indicate that California and New York state regulators are investigating virtual currency businesses. The Senate Committee on Homeland Security and Governmental Affairs has initiated an inquiry of its own into virtual currencies. One of their questions to us is whether the IRS has any ongoing coordination with any state or local governments related to the treatment of virtual currencies.

Please let me know whether you are aware of any coordination with California or New York state regulators relating to virtual currencies. If I should be asking someone else, please forward or let me know who to contact. Thanks for your help.

Doug Fahey  
202.622.7883

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** FW: Virtual currencies  
**Date:** Tuesday, August 27, 2013 10:34:37 AM  
**Importance:** High

---

FYI. These are (I think) the IRS liaisons with NY and CA.

Doug Fahey  
202.622.7883

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, August 27, 2013 10:27 AM  
**To:** Renville Gary D; Yau David; McKeon Kevin B; Kane Thomas P  
**Subject:** Virtual currencies  
**Importance:** High

Recently, there has been increasing interest in virtual currencies, Bitcoins in particular. News reports indicate that California and New York state regulators are investigating virtual currency businesses. The Senate Committee on Homeland Security and Governmental Affairs has initiated an inquiry of its own into virtual currencies. One of their questions to us is whether the IRS has any ongoing coordination with any state or local governments related to the treatment of virtual currencies.

Please let me know whether you are aware of any coordination with California or New York state regulators relating to virtual currencies. If I should be asking someone else, please forward or let me know who to contact. Thanks for your help.

Doug Fahey  
202.622.7883



**From:** [Berman Samuel](#)  
**To:** [Welsh Donna J](#); [Fahey Douglas A](#)  
**Subject:** FW: Virtual currency - marketing  
**Date:** Thursday, March 27, 2014 3:57:17 PM  
**Attachments:** [WebConnection Virtual currency.doc](#)

---

Donna and Doug,

The redlined edits in this short article are mine. Please let me know if you have anything you would like to add (or change).

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Mattonen Kimberly  
**Sent:** Thursday, March 27, 2014 12:51 PM  
**To:** Berman Samuel  
**Subject:** FW: Virtual currency - marketing

FYI re: this article. I did not comment as I have not been involved. Thought you might want to see it.

Kimberly A. Mattonen  
Special Counsel, SB/SE Division Counsel  
Telephone: (240) 613-6342  
Fax: (240) 613-6341

---

**From:** Gillen Duane M [<mailto:Duane.Gillen@irs.gov>]  
**Sent:** Thursday, March 27, 2014 11:34 AM  
**To:** Mattonen Kimberly; Ronk Alice L  
**Subject:** FW: Virtual currency - marketing

Please give me your comments or changes. I am Ok with the article and the approach. thanks

*Duane Gillen*  
Phone 240-613-5488  
Cell Phone 202-641-8548  
SB/SE Director Abusive Transactions and Technical Issues

---

**From:** Franke Thomas R  
**Sent:** Thursday, March 27, 2014 9:47 AM  
**To:** Gillen Duane M  
**Cc:** Garant Charlene M

**Subject:** FW: Virtual currency - marketing

See Portia's suggestion below:

1. Are you okay with this approach?
2. Are you okay with the attached article?

Tom Franke  
Senior Ops Advisor - SBSE Exam  
Phone 240-613-5605  
Fax 877-477-9198

---

**From:** Powell-Stringer Portia E  
**Sent:** Wednesday, March 26, 2014 1:16 PM  
**To:** Franke Thomas R  
**Subject:** Virtual currency - marketing

Hi Tom,

Rather than an Exam News item on virtual currency , I would like to use the attached shortened version as a WebConnection article. Technical Digest will include an article linking to the guidance.

There is an article on this topic scheduled for the April edition of Technical Digest that also will link to the guidance.

*Portia Powell-Stringer*  
SB/SE Communications  
Phone: 651-312-2251  
Fax: 651-312-2208

---

**From:** Franke Thomas R  
**Sent:** Wednesday, March 26, 2014 7:29 AM  
**To:** Powell-Stringer Portia E  
**Subject:** RE: Exam News item

The attachment did not come thru, can you resend.

Thanks,

Tom Franke  
Senior Ops Advisor - SBSE Exam  
Phone 240-613-5605  
Fax 877-477-9198

---

**From:** Powell-Stringer Portia E  
**Sent:** Wednesday, March 26, 2014 8:26 AM  
**To:** Franke Thomas R  
**Subject:** FW: Exam News item

See attached proposed Exam News item. I would like to post this as an internal article for Exam

employees. W&I is posting something similar as a SERP alert for their employees. Once the Exam article is posted I will submit an item for Tech Digest.

The article has been reviewed by Alice Ronk, and Eric Larsen.

Thanks

*Portia Powell-Stringer*

SB/SE Communications

Phone: 651-312-2251

Fax: 651-312-2208

---

**From:** Ronk Alice L

**Sent:** Tuesday, March 25, 2014 3:24 PM

**To:** Powell-Stringer Portia E

**Cc:** Larsen Eric R; Ronk Alice L

**Subject:** RE: Exam News item

Hi Portia,

As this seems in all material respects, identical to the News Release, I think it's fine to post. Thanks.

-Alice

---

**From:** Powell-Stringer Portia E

**Sent:** Tuesday, March 25, 2014 4:15 PM

**To:** Ronk Alice L

**Cc:** Larsen Eric R

**Subject:** Exam News item

See attached proposed Exam News article, with your approval I would like to post this as an internal article for Exam employees. W&I is posting something similar as a SERP alert for their employees. Once the Exam article is posted I will submit an item for Tech Digest.

Thanks

*Portia Powell-Stringer*

SB/SE Communications

Phone: 651-312-2251

Fax: 651-312-2208

**From:** [Welsh Donna J](#)  
**To:** [Meola Karla M](#); [Keyso Jr. Andrew J](#); [Aqui Keith A](#)  
**Subject:** FW: virtual currency bill  
**Date:** Wednesday, April 29, 2015 3:02:14 PM  
**Attachments:** [image015.png](#)

---

Fyi...

---

**From:** Blanchard William E  
**Sent:** Wednesday, May 14, 2014 6:54 AM  
**To:** &FIPLegal; Walli Karl - OTP; Novey Michael - OTP; Fahey Douglas A; Welsh Donna J; Erwin Mark E  
**Subject:** virtual currency bill

H.R. 4602 Would Treat Virtual Currency as Foreign Currency

**Citations:** H.R. 4602; Virtual Currency Tax Reform Act

### Summary by **taxanalysts**

H.R. 4602, the Virtual Currency Tax Reform Act, introduced by Rep. Steve Stockman, R-Texas, would direct the IRS to treat virtual currency as foreign currency and would impose a five-year moratorium during which capital gains tax will not be imposed on virtual currency.

### Full Text Published by **taxanalysts**<sup>®</sup>

113TH CONGRESS  
2D SESSION

#### **H.R. 4602**

To change the tax status of virtual currencies from  
property to foreign currency

#### **IN THE HOUSE OF REPRESENTATIVES**

**MAY 7, 2014**

Mr. STOCKMAN introduced the following bill; which was  
referred to the Committee on Ways and Means

#### **A BILL**

To change the tax status of virtual currencies from property to foreign currency

*Be it enacted by the Senate and House of Representatives of the United States of America  
in Congress assembled,*

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the "Virtual Currency Tax Reform Act".

## **SEC. 2. CONGRESSIONAL FINDINGS.**

Congress finds that classifying virtual currencies as property subjects users to capital gains tax on any transaction using the virtual currency based on any gain or loss relative to the change in the virtual currency's value from the time of purchase.

## **SEC. 3. DEFINITIONS.**

"Virtual currency" is a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value.

## **SEC. 4. GENERAL AUTHORIZATION.**

The Internal Revenue Service shall treat virtual currencies as a foreign currency for Federal tax purposes.

## **SEC. 5. MORATORIUM.**

(1) For a period of five years following the date of the enactment of this Act, the Federal Government shall not impose, assess, collect, or attempt to collect capital gains tax on virtual currencies.

(2) Nothing in this Act shall prevent, impair or impede the operation of any government agency, authority, or instrumentality, whether of the Federal Government or of any State or political subdivision thereof, to enforce currently existing criminal, civil, or taxation statutes and regulations.

## **SEC. 6. EFFECTIVE DATE.**

The provisions of this Act shall take effect at the beginning of the fiscal year following enactment.

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#); [Keyso Jr. Andrew J](#)  
**Subject:** FW: virtual currency bill  
**Date:** Wednesday, May 14, 2014 11:05:09 AM  
**Attachments:** [image015.png](#)

---

Fyi...

---

**From:** Blanchard William E  
**Sent:** Wednesday, May 14, 2014 6:54 AM  
**To:** &FIPLegal; Walli Karl - OTP; Novey Michael - OTP; Fahey Douglas A; Welsh Donna J; Erwin Mark E  
**Subject:** virtual currency bill

H.R. 4602 Would Treat Virtual Currency as Foreign Currency

**Citations:** H.R. 4602; Virtual Currency Tax Reform Act

### Summary by **taxanalysts**

H.R. 4602, the Virtual Currency Tax Reform Act, introduced by Rep. Steve Stockman, R-Texas, would direct the IRS to treat virtual currency as foreign currency and would impose a five-year moratorium during which capital gains tax will not be imposed on virtual currency.

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2D SESSION

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referred to the Committee on Ways and Means

#### **A BILL**

To change the tax status of virtual currencies from property to foreign currency

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in Congress assembled,*

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This Act may be cited as the "Virtual Currency Tax Reform Act".

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(2) Nothing in this Act shall prevent, impair or impede the operation of any government agency, authority, or instrumentality, whether of the Federal Government or of any State or political subdivision thereof, to enforce currently existing criminal, civil, or taxation statutes and regulations.

## **SEC. 6. EFFECTIVE DATE.**

The provisions of this Act shall take effect at the beginning of the fiscal year following enactment.

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** FW: Virtual Currency Draft FAQs --Treasury's version  
**Date:** Friday, January 31, 2014 1:56:09 PM  
**Attachments:** [Bitcoin Notice 1-29-14.docx](#)

---

Hi Keith, Will you please give the atty a call back. Thx.

---

**From:** Burns Gregory  
**Sent:** Friday, January 31, 2014 10:15 AM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** FW: Virtual Currency Draft FAQs --Treasury's version

Donna and Keith,

I have a question on the scope of the Notice that has arisen due to comments made by Treasury and CC executive compensation specialists.

Would it be possible to have a brief call with one of you to discuss?

Thank you,  
Greg Burns  
CC:TEGE:EB:EC  
202-317-4545

---

**From:** Richards John B  
**Sent:** Wednesday, January 29, 2014 4:29 PM  
**To:** Burns Gregory  
**Subject:** FW: Virtual Currency Draft FAQs --Treasury's version

---

**From:** Welsh Donna J  
**Sent:** Wednesday, January 29, 2014 12:44 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B  
**Cc:** Cook Janine; Keyso Jr. Andrew J; Montemurro Michael J; Welsh Donna J  
**Subject:** Virtual Currency Draft FAQs --Treasury's version

Hi everyone, Here are Treasury's changes to our FAQs in a clean-read version. Because of the high profile nature of the questions and the need for more formal guidance, Treasury has converted our FAQs into a Notice to be published in the IRB. Erik Corwin and Treasury would like to get this out quickly because nearly every day there is news article discussing the unanswered issues surrounding virtual currency.



I am going to schedule a meeting next Wednesday, 2/5/14, for the Associate Offices to discuss Treasury's comments. Ideally, I would like to provide Treasury with our combined comments on Friday, 2/7/14. We need to add contact information for TEGE, PA, and FIP, so please let me know who your office's contact is and their Branch's general phone number.

Thanks to all for your hard work on this novel project.

Donna

**From:** [Dwyer Sean M](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits  
**Date:** Wednesday, October 23, 2013 10:40:15 AM

---

We have no comments.

---

**From:** Kane Christopher F  
**Sent:** Wednesday, October 23, 2013 10:20 AM  
**To:** Dwyer Sean M  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

I have no comments

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**From:** Dwyer Sean M  
**Sent:** Tuesday, October 22, 2013 4:36 PM  
**To:** Kane Christopher F  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

Just noticed you weren't on the distribution list.

I don't have any comments. They made the change we suggested last time.

---

**From:** Welsh Donna J  
**Sent:** Friday, October 18, 2013 1:17 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J; Keyso Jr. Andrew J; Cook Janine; Welsh Donna J  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

Hi Everyone, I will spare you the welcome back speech. But I would appreciate your final edits by COB 10/23/13.

Thanks!  
djw

---

**From:** Welsh Donna J  
**Sent:** Friday, September 27, 2013 4:05 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J  
**Cc:** Cook Janine; Keyso Jr. Andrew J  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi everyone, Here's what I hope is the final version. This revised draft includes an intro and a few misc edits. We kept TEGE's version of the Q&A on mining b/c it is helpful info on self-employment. Please read afresh b/c there are minor edits here and there. I would appreciate you final

comments/edit by COB Tuesday so that we can send forward for briefing.

Thanks!

Donna

**From:** Welsh Donna J  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J; Keyso Jr. Andrew J; Cook Janine; Welsh Donna J  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits  
**Date:** Friday, October 18, 2013 1:16:52 PM  
**Attachments:** Virtual Currency QA 0927ITAdoc.doc

---

Hi Everyone, I will spare you the welcome back speech. But I would appreciate your final edits by COB 10/23/13.

Thanks!  
djw

---

**From:** Welsh Donna J  
**Sent:** Friday, September 27, 2013 4:05 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J  
**Cc:** Cook Janine; Keyso Jr. Andrew J  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi everyone, Here's what I hope is the final version. This revised draft includes an intro and a few misc edits. We kept   
Please read afresh b/c there are minor edits here and there. I would appreciate you final comments/edit by COB Tuesday so that we can send forward for briefing.

(b)(5)

Thanks!  
Donna

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Moriarty John P](#)  
**Subject:** FW: Virtual Currency Issue Team Call  
**Date:** Wednesday, April 02, 2014 5:12:44 PM

---

FYI.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

-----Original Message-----

From: Welsh Donna J  
Sent: Wednesday, April 02, 2014 4:44 PM  
To: Keyso Jr. Andrew J  
Subject: FW: Virtual Currency Issue Team Call

Hi Andy, Here is a discuss of my LBI team for you offsite.

-----Original Message-----

From: Edelman Edward M [<mailto:Edward.M.Edelman@irs.gov>]  
Sent: Thursday, February 27, 2014 11:16 AM  
To: Ronk Alice L  
Cc: Welsh Donna J; Nicholls Lori J; McFee Tracy L  
Subject: FW: Virtual Currency Issue Team Call

Alice,

I don't know if you recall but we worked together previously on certain items when I was one of several Technical Specialists (formerly known as "Technical Advisors") in SB/SE ATAT, back when Donna Hansberry headed that function.

The Virtual Currency Issue Team would be glad to add you as a member. Your knowledge and expertise on this topic, as well as your work in abusive transactions and your experience in assisting Donna Welsh with the guidance project on Virtual Currencies ensures that you will be a valuable contributor. I would however like to clarify what the Virtual Currency Issue Team is and its objectives.

It is important that the Issue Team understands that it works under the auspices of the Offshore Arrangements International Practice Network (IPN) Steering Committee. The Virtual Currency Issue Team was formed by the IPN Steering Committee to analyze specific technical issues related to virtual currencies. As a result, any issues identified by the Team and potential strategies for addressing these issues need to be brought back to the Steering Committee for their consideration and input. It is the IPN Steering Committee that sets the strategic direction for the IPNs, including setting the agenda of the IPN Network Events and the schedule for the IPN projects and other activities. The Steering Committee is made up of a small group of International Technical Specialists, Managers, and Counsel personnel who are charged with organizing IPN work, including development of International Practice Service Units, providing input on forms, planning training, reviewing draft (green circulation) IRS guidance, interacting with other IRS functions, and making recommendations to the International Strategic Council about developments in the IPN's subject matter area.

Members of the Issue Team need to understand that the scope of this Issue Team is not to address all issues regarding virtual currency for all Operating Divisions of the IRS, although there may be issues that cross operating divisions that are considered by the team. Therefore, it is important that each member of the Issue Team focuses on its goals without getting "off mission" by working on issues without international aspects.

The objectives for the Virtual Currency Issue Team may be summarized as follows:

1. Educate the Issue Team members about virtual currency: i.e. terminology, how it works, who uses it, what it is used for, etc.
2. Understand the tax law issues and how the tax law applies to virtual currency transactions.
3. Identify the international aspects (if any) related to virtual currency transactions: (i.e. is virtual currency being used to shift income offshore and avoid U.S. taxes?)
4. Offer suggestions for information to be shared with the field through events, training and education on the topic of virtual currency as it relates to their examinations. (Income probe, types of transactions, tax implications)

With this mind, we look forward to your participation on the Virtual Currency Issue Team.

Eddie Edelman

Technical Specialist

LB & I International Individual Compliance

6230 Van Nuys Blvd., 1st Floor

Van Nuys, California 91401-2780

Office (Desk): 818-779-3646

Cell: 818-261-0865

IIC Offshore Arrangements IPN

<<https://organization.ds.irsnet.gov/sites/LBIINTL/SitePages/Offshore%20Arrangements/OffshoreArrangementsIPN.aspx>>

---

From: Welsh Donna J [<mailto:Donna.J.Welsh@irs.counsel.treas.gov>]

Sent: Thursday, February 20, 2014 6:37 PM

To: Edelman Edward M

Cc: Ronk Alice L

Subject: RE: Virtual Currency Issue Team Call

Hi Eddie, Please add Alice Ronk to our working group. I will forward this invite to her. Thanks.

-----Original Appointment-----

From: Edelman Edward M [<mailto:Edward.M.Edelman@irs.gov>] <<mailto:Edward.M.Edelman@irs.gov>>]

Sent: Thursday, February 20, 2014 8:14 PM

To: Karavitis Roula; Nicholls Lori J; Peraza Lilia R; Stone Christine; Huang Jeff J; Bray Patricia A; Skutley Michael R; Utzke David J; Carter Kareem A; Welsh Donna J; Driscoll Robert G; Schenck Carolyn A; Eblen Mark D; Berman Samuel; Young Eric M

Cc: Kaercher Michael A; Choi Eunice; Stahl Raymond J; Huggs Stephen C; Cadenas Ricardo A; Tafur John R

Subject: Virtual Currency Issue Team Call

When: Wednesday, March 19, 2014 8:00 AM-9:00 AM (UTC-08:00) Pacific Time (US & Canada).

Where: Call In #:

(b)(7)(E)

Our next Virtual Currency Issue Team call is scheduled for Wednesday, March 19, 2014 at 11:00 A.M. Eastern (8:00 A.M. Pacific; 10:00 A.M. Central)

Call- In #:

(b)(7)(E)

Access Code:

(b)(7)(E)

Now that we know some of the basics (thanks to the last meeting's presentation) about what Virtual Currency is, what it is not and how it may be used, let's plan on discussing ways to identify if taxpayers are using virtual currency to avoid or evade U.S. tax. (See the attached Agenda).

Hope you can participate.

<< File: Agenda - Virtual Currency Issue Team Meeting 3-19-2014.doc >>

Eddie Edelman

Technical Specialist

LB & I International Individual Compliance

6230 Van Nuys Blvd., 1st Floor

Van Nuys, California 91401-2780

Office (Desk): 818-779-3646

Cell: 818-261-0865

IIC Offshore Arrangements IPN

<<https://organization.ds.irsnet.gov/sites/LBIINTL/SitePages/Offshore%20Arrangements/OffshoreArrangementsIPN.aspx>>

From: Welsh Donna J [<mailto:Donna.J.Welsh@irs.counsel.treas.gov>]

Sent: Thursday, February 20, 2014 7:14 AM

To: Edelman Edward M

Cc: Ronk Alice L; Fahey Douglas A

Subject: FW: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Hi Eddie, I would like to add Alice Ronk to our Group. She has been active in the guidance project and she is IRS and works in the area of abusive transactions.

Thanks!

From: Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov> <<mailto:Alice.L.Ronk@irs.gov>> ]

Sent: Wednesday, February 19, 2014 8:26 PM

To: Welsh Donna J

Cc: Ronk Alice L

Subject: RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

I'd love to sit in. Thanks for inviting me. And thanks, too, for all of the help keeping the Notice moving!

From: Welsh Donna J [<mailto:Donna.J.Welsh@irs.counsel.treas.gov>

<<mailto:Donna.J.Welsh@irs.counsel.treas.gov>> ]

Sent: Wednesday, February 19, 2014 5:45 PM

To: Ronk Alice L

Subject: RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Hi Alice, the Notice is working its way through clearance.

On another matter, I am a member of an "International Practice Network"

(IPN) that is called the "Virtual Currency Issues Team". The Team is an informal discussion group looking at issues relating to virtual currency.

It is largely LBI types, but there is a member from CT. I was wondering if you would like to become a member. Sam Berman is a member of the team already. The Team has phone conferences once a month.

Hope all is well.



**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** FW: Virtual Currency Notice (Notice 2014-21)  
**Date:** Monday, March 24, 2014 10:28:27 AM

---

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]  
**Sent:** Monday, March 24, 2014 9:55 AM  
**To:** Fahey Douglas A  
**Cc:** Keyso Jr. Andrew J  
**Subject:** RE: Virtual Currency Notice (Notice 2014-21)

Yes, as far as the info I received yesterday—don't know where WH clearance is yet and they need to make contact with Hill. You should contact your Public Affairs office. They should be working with Erin Doran in Treasury Public Affairs.

---

**From:** [Fahey Douglas A](mailto:Fahey Douglas A) [mailto:[Douglas.A.Fahey@irs.counsel.treas.gov](mailto:Douglas.A.Fahey@irs.counsel.treas.gov)]  
**Sent:** Monday, March 24, 2014 9:53 AM  
**To:** Hodes, Rochelle  
**Cc:** Keyso Jr., Andrew J  
**Subject:** RE: Virtual Currency Notice (Notice 2014-21)

Excellent! Are we still waiting until tomorrow afternoon to release?

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]  
**Sent:** Monday, March 24, 2014 9:50 AM  
**To:** Fahey Douglas A  
**Cc:** Keyso Jr. Andrew J  
**Subject:** FW: Virtual Currency Notice (Notice 2014-21)

Fyi. Lisa approved. Done!

---

**From:** Smith, Bernetta  
**Sent:** Monday, March 24, 2014 9:47 AM  
**To:** Keyso Jr., Andrew J  
**Cc:** Zarlenga, Lisa; Hodes, Rochelle  
**Subject:** Virtual Currency Notice (Notice 2014-21)

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Fahey Douglas A](#)  
**Subject:** FW: Virtual Currency written responses  
**Date:** Thursday, August 22, 2013 1:37:42 PM  
**Attachments:** [Bitcoin Responses Draft 08222013.docx](#)

---

Fyi...

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**From:** Griffin Adrienne E  
**Sent:** Thursday, August 22, 2013 1:36 PM  
**To:** Welsh Donna J  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E  
**Subject:** Virtual Currency written responses

Donna,

Please find attached P&A's draft written responses to the information reporting questions from the virtual currency/bitcoin document the Service drafted.

(b)(5)

If you have any questions or would like to discuss this draft, please let us know.

Thanks,  
Adrienne

***Adrienne Griffin***

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Jensen Steven D](#)  
**Subject:** FW: Virtual Currency  
**Date:** Wednesday, August 28, 2013 11:06:53 AM

---

Hi Keith, I am working from home today. What is the control number for the Bitcoin case? Thanks.

---

**From:** Jensen Steven D  
**Sent:** Wednesday, August 28, 2013 10:30 AM  
**To:** Welsh Donna J  
**Cc:** Erwin Mark E; Shelburne Anne P  
**Subject:** RE: Virtual Currency

Do you have a case number for the Bitcoin issue? Was an assistance set up for International? Thanks.

---

**From:** Welsh Donna J  
**Sent:** Thursday, August 08, 2013 12:05 PM  
**To:** Welsh Donna J; Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T  
**Subject:** FW: Virtual Currency

<< File: Shavers.pdf >>

Bitcoins held to be currency or form of money by District Court.

---

**From:** Welsh Donna J  
**Sent:** Wednesday, July 24, 2013 3:20 PM  
**To:** Welsh Donna J; Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T  
**Cc:** Welsh Donna J  
**Subject:** FW: Virtual Currency

Hi Everyone, More info on Bitcoins...not real currency.

[thanks, Neil.]

---

**From:** Shepherd Neil D  
**Sent:** Wednesday, July 24, 2013 1:40 PM  
**To:** Welsh Donna J  
**Cc:** Camillo Lynne A; Richards John B; Shepherd Neil D  
**Subject:** Virtual Currency

Greetings, Donna. I'm sure you're buried under Bitcoin related information, but I wanted to make sure that you have the FinCEN guidance relating to virtual currencies (attached). Additionally, the European Central Bank prepared a report on "virtual currency schemes" with a section devoted to Bitcoins (also attached). Anecdotally, it appears that both the Federal Reserve and the Securities & Exchange Commission are looking at Bitcoins. To the extent possible, a consistent approach among various Federal agencies seems advisable.

Many thanks.

<< File: FinCEN Guidance.pdf >> << File: Virtual Currency [ECB].pdf >>

**From:** [Welsh Donna J](#)  
**To:** [Welsh Donna J](#); [Erwin Mark E](#); [Shelburne Anne P](#); [Vo My V](#); [Jensen Steven D](#); [Blanchard William E](#); [Rogers John W III](#); [Camillo Lynne A](#); [Shepherd Neil D](#); [Fahey Douglas A](#); [Aqui Keith A](#); [Cottrell Mark E](#); [Hall Charles A](#); [Prasad Girish](#); [Griffin Adrienne E](#); [Dubert Alexa T](#)  
**Subject:** FW: Virtual Currency  
**Date:** Thursday, August 08, 2013 12:05:04 PM  
**Attachments:** [Shavers.pdf](#)  
[FinCEN Guidance.pdf](#)  
[Virtual Currency \[ECB\].pdf](#)

---

Bitcoins held to be currency or form of money by District Court.

---

**From:** Welsh Donna J  
**Sent:** Wednesday, July 24, 2013 3:20 PM  
**To:** Welsh Donna J; Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T  
**Cc:** Welsh Donna J  
**Subject:** FW: Virtual Currency

Hi Everyone, More info on Bitcoins...not real currency.

[thanks, Neil.]

---

**From:** Shepherd Neil D  
**Sent:** Wednesday, July 24, 2013 1:40 PM  
**To:** Welsh Donna J  
**Cc:** Camillo Lynne A; Richards John B; Shepherd Neil D  
**Subject:** Virtual Currency

Greetings, Donna. I'm sure you're buried under Bitcoin related information, but I wanted to make sure that you have the FinCEN guidance relating to virtual currencies (attached). Additionally, the European Central Bank prepared a report on "virtual currency schemes" with a section devoted to Bitcoins (also attached). Anecdotally, it appears that both the Federal Reserve and the Securities & Exchange Commission are looking at Bitcoins. To the extent possible, a consistent approach among various Federal agencies seems advisable.

Many thanks.

**From:** [Welsh Donna J](#)  
**To:** [Welsh Donna J](#); [Erwin Mark E](#); [Shelburne Anne P](#); [Vo My V](#); [Jensen Steven D](#); [Blanchard William E](#); [Rogers John W III](#); [Camillo Lynne A](#); [Shepherd Neil D](#); [Fahey Douglas A](#); [Aqui Keith A](#); [Cottrell Mark E](#); [Hall Charles A](#); [Prasad Girish](#); [Griffin Adrienne E](#); [Dubert Alexa T](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** FW: Virtual Currency  
**Date:** Wednesday, July 24, 2013 3:20:10 PM  
**Attachments:** [FinCEN Guidance.pdf](#)  
[Virtual Currency \[ECB\].pdf](#)

---

Hi Everyone, More info on Bitcoins...not real currency.

[thanks, Neil.]

---

**From:** Shepherd Neil D  
**Sent:** Wednesday, July 24, 2013 1:40 PM  
**To:** Welsh Donna J  
**Cc:** Camillo Lynne A; Richards John B; Shepherd Neil D  
**Subject:** Virtual Currency

Greetings, Donna. I'm sure you're buried under Bitcoin related information, but I wanted to make sure that you have the FinCEN guidance relating to virtual currencies (attached). Additionally, the European Central Bank prepared a report on "virtual currency schemes" with a section devoted to Bitcoins (also attached). Anecdotaly, it appears that both the Federal Reserve and the Securities & Exchange Commission are looking at Bitcoins. To the extent possible, a consistent approach among various Federal agencies seems advisable.

Many thanks.

**From:** [Welsh Donna J](#)  
**To:** [Warren Brinton T](#); [Agui Keith A](#)  
**Subject:** FW: Virtual currency  
**Date:** Friday, September 06, 2013 5:09:14 PM

---

About Monday's meeting in Room 4562 with International.

---

**From:** Erwin Mark E  
**Sent:** Wednesday, September 04, 2013 5:41 PM  
**To:** Welsh Donna J; Jensen Steven D  
**Cc:** Keyso Jr. Andrew J; Fahey Douglas A  
**Subject:** RE: Virtual currency

Donna, thanks. This is very helpful. [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

[REDACTED]

Your preliminary view sounds to me like the correct view.

(b)(5)

We appreciate you joining us on Monday.

Regards,

Mark

---

**From:** Welsh Donna J

**Sent:** Wednesday, September 04, 2013 5:22 PM

**To:** Erwin Mark E; Jensen Steven D

**Cc:** Keyso Jr. Andrew J; Fahey Douglas A

**Subject:** FW: Virtual currency

Hi Mark and Steve, We do not have anything that currently summarizes our position on acquiring and disposing of Bitcoins.

However, Our preliminary view is that, [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

I will join you in Room 4562 on Monday.

---

**From:** Erwin Mark E

**Sent:** Wednesday, September 04, 2013 12:31 PM

**To:** Welsh Donna J; Jensen Steven D

**Subject:** RE: Virtual currency

IPN stands for International Practice Network -- it's analogous to domestic IPGs. The call is scheduled for Monday, Sept 9 at 1pm.

Conf call: [REDACTED] access code [REDACTED] (b)(7)(E)

You're welcome to join us in 4562 to do the call, if you'd prefer.

Do we have anything that currently summarizes our position on the basic tax consequences of acquiring and disposing of bitcoin? When we update our front office, we'd like to be able to tell them what the current thinking is and what the proposed guidance may ultimately say. We understand that everything is still preliminary and subject to review by Treasury.

Thanks

---

**From:** Welsh Donna J

**Sent:** Wednesday, September 04, 2013 11:02 AM

**To:** Erwin Mark E; Jensen Steven D

**Subject:** RE: Virtual currency

Hi Mark, We do not have a working draft at this time. What does IPN stand for? Do we have a call in number or Room number for Monday? Thanks.

---

**From:** Erwin Mark E

**Sent:** Wednesday, September 04, 2013 9:55 AM

**To:** Welsh Donna J; Jensen Steven D

**Subject:** Virtual currency

Hi Donna,

Does ITA have a current draft of the proposed guidance on virtual currency that you can share with us? We'd like to prepare for the call on Monday with the IPN, and we also need to provide our front office with an update on this project.

Thanks,

Mark

Mark E. Erwin



Chief, Branch 5

Office of Associate Chief Counsel (INTL)

202-622-3295

**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Kelley R Matthew](#)  
**Subject:** FW: Virtual Currency  
**Date:** Wednesday, October 07, 2015 10:43:34 AM

---

FYI.

---

**From:** Jicinsky Cory M [mailto:Cory.M.Jicinsky@irs.gov]  
**Sent:** Tuesday, October 06, 2015 7:04 PM  
**To:** Aqui Keith A  
**Cc:** Jicinsky Cory M  
**Subject:** Virtual Currency

Hello,

I'm a group manager in Employee Plans and part of an Emerging Issue Team that works on issues associated with Retirement Plans. My question pertains to whether or not the subject of virtual currency (Bitcoin) is being addressed in regard to retirement plans (pensions). I reviewed IRC 2014-16, but the amount of information available is limited. While I haven't heard of any specific instances where virtual currency has been found in retirement plans, it certainly is only a matter of time. The fact that we issued an IRB addressing it legitimizes the phenomenon. I've also sent an email to the LDC.

Thank you in advance for any help on this topic.

Cory Jicinsky

Cory M. Jicinsky  
Employee Plans  
Group Manager 7689  
1818 E. Southern., Ste 15  
MS 4900MES  
Mesa, AZ 85204-5228  
480-503-7314 (Phone)  
480-229-8866 (Cell)  
480-503-7320 (Fax)

**From:** [Montemurro Michael J](#)  
**To:** [Welsh Donna J](#)  
**Subject:** FW: Virtual Currencies (Bitcoins) again  
**Date:** Thursday, March 28, 2013 10:55:41 AM

---

Donna — fyi.

Michael J. Montemurro  
CC:ITA:4 — ' : 202.622.7101  
Rm. 4243-W (enter through Rm. 4241)  
[michael.j.montemurro@irs.counsel.treas.gov](mailto:michael.j.montemurro@irs.counsel.treas.gov)

---

**From:** Baumgarten Peter J  
**Sent:** Friday, March 22, 2013 1:04 PM  
**To:** Montemurro Michael J; Dunham III Frank W; Pfalzgraf Amy J  
**Subject:** Virtual Currencies (Bitcoins) again

In today's Wall Street Journal:  
Updated March 21, 2013, 10:02 p.m. ET

## Web Money Gets Laundering Rule

By [JEFFREY SPARSHOTT](#)

The U.S. is applying money-laundering rules to "virtual currencies," amid growing concern that new forms of cash bought on the Internet are being used to fund illicit activities.

Enlarge Image

*Close* *Agence France-Presse/Getty Images*

The Treasury says money-laundering rules apply to 'virtual currencies.'\l " U.S. is applying money-laundering rules to "virtual currencies," amid growing concern that new forms of cash bought on the Internet are being used to fund illicit activities. Jeffrey Sparshott reports.

Photo: AP.

A digital currency for Microsoft Outlook? Social Networks? WSJ's Andy Jordan talks to currency renegades tired of big-government centralized cash, and desperate to make their own (legal) money systems.

The move means that firms that issue or exchange the increasingly popular online cash will now be regulated in a similar manner as traditional money-order providers such as [Western Union Co.](#) [WU](#) +1.10% They would have new bookkeeping requirements and mandatory reporting for transactions of more than \$10,000.

Moreover, firms that receive legal tender in exchange for online currencies or anyone conducting a transaction on someone else's behalf would be subject to new scrutiny, said proponents of Internet currencies.

The rising popularity of virtual currencies, while no more than a drop in the bucket of global liquidity, is being fueled by Internet merchants, as well as users' concerns about privacy, jitters about traditional currencies in Europe and the age-old need to move money for illicit purposes.

The arm of the Treasury Department that fights money laundering said Monday that the standard federal banking rules aimed at suspicious dollar transfers also apply to firms that issue or exchange money that isn't linked to any government and exists only online.

One of the fastest-growing alternative cash products is Bitcoin, an online currency launched in 2009 that isn't backed by a central bank or controlled by a central administrator. Currency units, known as "bitcoins" and consisting of a series of numbers, are created automatically on a set schedule and traded anonymously between digital addresses or "wallets." Certain exchange firms buy or sell bitcoins for legal tender at a rate that fluctuates with the market.

It isn't clear if the latest guidance would apply to a merchant's online scrip. [Amazon.com](#) Inc., [AMZN +0.82%](#) for example, in February announced Amazon Coins, which starting in May can be used to buy apps and games on Kindle Fire. An Amazon Coin is worth one cent.

Amazon didn't respond to a request for comment.

"We are beyond the stage where this was just funny money and a fun online thing. This is used as a currency," said Nicolas Christin, associate director of Carnegie Mellon University's Information Networking Institute.

Bitcoins can be used in a host of legitimate transactions —for example, website Reddit allows users to upgrade services using bitcoins and blog service Wordpress.com's store accepts them as a form of payment. Pizzaforcoins.com also lets bitcoin savers pay for deliveries through Domino's and other pizzerias.

On the other hand, at least one online service takes bitcoins as payment for illegal drugs, according to a Federal Bureau of Investigation report last year. Bitcoin's backers point out that criminals will use any currency for money laundering or illegal purchases.

"I think it's inevitable that just like you have U.S. dollars used by thieves and criminals, it's sadly inevitable you will have criminals use a virtual currency. We want to work with authorities," said Jeff Garzik, a Bitcoin developer.

Still, law enforcement, regulators and financial institution have expressed worries about the hard-to-trace attributes of virtual currencies, helping trigger this week's move from the Treasury's Financial Crimes Enforcement Network, or FinCen.

Creating clear-cut rules for virtual currencies is difficult. A FinCen official said that anti-money-laundering rules would apply depending on the "factors and circumstances" of each business. The rules don't apply to individuals who simply use virtual currencies to purchase real or virtual goods.

The new guidance "clarifies definitions and expectations to ensure that businesses...are aware of their regulatory responsibilities," said Jennifer Shasky Calvery, FinCen director.

The FBI report last year said Bitcoin attracts cybercriminals who want to move or steal funds. "Bitcoin might also logically attract money launderers and other criminals who avoid

traditional financial systems by using the Internet to conduct global monetary transfers," the report said. An FBI spokeswoman declined to comment when asked about the agency's concerns regarding virtual currencies.

For now, the size of the bitcoin market is so small that it could be difficult or costly to move and exchange large amounts of illicit funds. Another danger: extreme price fluctuations.

The value of a bitcoin rose to more than \$60 a unit from less than \$49 on one exchange following the release of FinCen's new guidance —a move that Mr. Garzik attributed partly to a new level of certainty and legitimacy that federal recognition attaches to bitcoin transactions.

The American Bankers Association in 2011 asked the Consumer Financial Protection Bureau to apply consumer financial protection laws uniformly across the financial sector regardless of whether an entity is a traditional bank or one of the evolving nonbank payment providers.

A CFPB spokeswoman declined to comment on the matter.

"This framework would wildly expand the reach of FinCen and the [Bank Secrecy Act],' said Patrick Murck, legal counsel for the Bitcoin Foundation, a trade group that promotes Bitcoin software and security standards. He said the government's rules "would be infeasible for many, if not most, members of the Bitcoin community to comply with."

Some firms say they anticipated the rules. Charlie Sherm, chief executive of bitcoin payment processor BitInstant, said his company is already compliant.

Mr. Christin of Carnegie Mellon said that he believes Bitcoin's dominant use right now is speculation.

"When you have a commodity or currency whose value has grown as rapidly as Bitcoin it makes sense to hold on to it as a speculative instrument," he said. It also is commonly used for online black markets or gambling sites. "Whether used for money laundering...there is no smoking gun."

Trading also is limited. On the biggest exchange, Japan-based Mt. Gox, volume has ranged from the equivalent of about \$427,000 a day to just over \$8 million a day during the past month, according to BitcoinCharts, a website that provides financial and technical data on bitcoins.

The jump in the bitcoin exchange rate this week also coincides with concerns euros could be taken from retail bank accounts in Cyprus to fund a bailout. Internet blogs say speculators are looking toward currency alternatives.

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: Wall Street Journal Article on Bitcoin Mining  
**Date:** Thursday, November 07, 2013 10:19:54 AM  
**Attachments:** [WSJ Nov 6 2013 article on mining.pdf](#)

---

Nb this article using the phrase "create bitcoins."

---

**From:** Berman Samuel  
**Sent:** Thursday, November 07, 2013 9:02 AM  
**To:** Welsh Donna J  
**Subject:** Wall Street Journal Article on Bitcoin Mining

Donna ,

This was in yesterday's Wall Street Journal. The gist is that it is becoming more difficult to make a profit by "mining" bitcoins because of the competition and equipment costs.

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)

Voice: (240) 613-6368

Fax: (240) 613-6341

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** FW: WALL STREET JOURNAL: I'm writing about Bitcoin  
**Date:** Tuesday, December 17, 2013 9:55:08 AM

---

FYI. Haven't responded to Bruce yet.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Friedland Bruce I [<mailto:Bruce.I.Friedland@irs.gov>]  
**Sent:** Tuesday, December 17, 2013 9:38 AM  
**To:** Fahey Douglas A; Keyso Jr. Andrew J  
**Cc:** Patterson Dean J  
**Subject:** WALL STREET JOURNAL: I'm writing about Bitcoin

Doug and Andy,

Laura Saunders is writing about Bitcoin.

Below is her inquiry and below that an earlier note.

Let's have a brief conversation.

Bruce  
202-317-4000

---

**From:** Saunders, Laura [<mailto:Laura.Saunders@wsj.com>]  
**Sent:** Monday, December 16, 2013 3:07 PM  
**To:** Friedland Bruce I  
**Cc:** Smith Eric L  
**Subject:** I'm writing about Bitcoin

& tax issues, I think for this week. I.e. Is Bitcoin the tax haven of the future?

Specific questions for IRS comment:

- 1) If a U.S. taxpayer has \_\_\_\_\_ amount of Bitcoin or another virtual currency, does the taxpayer have to file an FBAR or a FATCA form 8938?
- 2) Are gains on Bitcoin or another virtual currency treated as from property, currency, barter, or a financial instrument? Or a collectible?
- 3) Does the IRS have any current projects addressing the taxation of virtual currencies?

Anything else you want to say on this subject?

Deadline:

I'm working on something for this week.

Cheers!

Laura

P.S.: any new OVDI/OVDP numbers? (I had to ask)

Laura Saunders  
The Wall Street Journal  
1211 Avenue of the Americas  
New York, NY 10036  
212 416 2781

<https://twitter.com/saunderswsj>

**From:** Friedland Bruce I  
**Sent:** Tuesday, November 19, 2013 11:53 AM  
**To:** Fahey Douglas A  
**Cc:** Keyso Jr. Andrew J; Patterson Dean J  
**Subject:** WSJ: Bitcoin Inquiry

Laura Saunders of the Wall Street Journal is writing about Bitcoin, probably as a result of the hearing yesterday (see the reference to us from the NY Times article this morning below). She will be writing a paragraph or two that seeks to characterize the open tax questions related to Bitcoin. She didn't provide a lot of detail, but suggested that there ambiguities involving looking at transaction involving bitcoins as barter.

Here in media relations, we would like to make sure we're roughly up to speed on the rough contours of this issue -- what you guys are weighing in your thought. We aren't interested in generating stories about this, BUT we also don't want a bad story that mischaracterizes the situation to generate even more inquiries for CC to handle.

Let us know what you think is advisable for us to know.

Bruce  
202-317-4000

As you probably saw in the New York Times story today a comment by a FinCEN official:



**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: WSJ Article: With a Bitcoin ETF, Risk Isn't Virtual  
**Date:** Monday, September 08, 2014 4:58:28 PM

---

Fyi...

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**From:** Berman Samuel  
**Sent:** Monday, September 08, 2014 4:30 PM  
**To:** Gillen Duane M; Marshall William P  
**Cc:** Edelman Edward M; Welsh Donna J; Ronk Alice L  
**Subject:** WSJ Article: With a Bitcoin ETF, Risk Isn't Virtual

Duane and Bill,

This is a link to an article that appeared in today's edition of the Wall Street Journal, about plans for something like an exchange-traded fund that invests in bitcoins. It would be traded "over the counter" (like a penny stock). As the title suggests, the article points out the risks of such an investment.

<http://online.wsj.com/articles/with-a-bitcoin-etf-risk-isn-t-virtual-1410120108>

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** FW: WSJ Bitcoin article  
**Date:** Monday, August 12, 2013 2:55:49 PM  
**Attachments:** [nocldaf\\_081213\\_145327.pdf](#)

---

FYI

Doug Fahey  
202.622.7883

---

**From:** Douglas.A.Fahey@irsounsel.treas.gov [<mailto:Douglas.A.Fahey@irsounsel.treas.gov>]  
**Sent:** Monday, August 12, 2013 2:54 PM  
**To:** Fahey Douglas A  
**Subject:** WSJ Bitcoin article

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** FW: WSJ: Bitcoin Inquiry  
**Date:** Tuesday, November 19, 2013 12:02:23 PM

---

FYI. I haven't talked to Andy about this yet.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Friedland Bruce I [mailto:[Bruce.I.Friedland@irs.gov](mailto:Bruce.I.Friedland@irs.gov)]  
**Sent:** Tuesday, November 19, 2013 11:53 AM  
**To:** Fahey Douglas A  
**Cc:** Keyso Jr. Andrew J; Patterson Dean J  
**Subject:** WSJ: Bitcoin Inquiry

Laura Saunders of the Wall Street Journal is writing about Bitcoin, probably as a result of the hearing yesterday (see the reference to us from the NY Times article this morning below). She will be writing a paragraph or two that seeks to characterize the open tax questions related to Bitcoin. She didn't provide a lot of detail, but suggested that there ambiguities involving looking at transaction involving bitcoins as barter.

Here in media relations, we would like to make sure we're roughly up to speed on the rough contours of this issue -- what you guys are weighing in your thought. We aren't interested in generating stories about this, BUT we also don't want a bad story that mischaracterizes the situation to generate even more inquiries for CC to handle.

Let us know what you think is advisable for us to know.

Bruce  
202-317-4000

As you probably saw in the New York Times story today a comment by a FinCEN official:

"The decision to bring virtual currency within the scope of our regulatory framework should be viewed by those who respect and obey the basic rule of law as a positive development for this sector," said Jennifer Shasky Calvery, the director of the Treasury Department's Financial Crimes Enforcement Network. "It recognizes the innovation virtual currencies provide, and the benefits they might offer."

Ms. Shasky Calvery and the other officials at the hearing did say that basic questions still had to be answered about virtual currencies, including whether they can actually be considered currencies or whether they are more properly categorized as commodities or securities. The distinction will determine which agencies regulate the networks and how they are treated under tax law.

Ms. Shasky Calvery said that the **Internal Revenue Service** was "actively working" on its own rules for bitcoin.

The hearing followed other less visible steps taken by regulators and lawmakers to bring digital money into the mainstream.

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#); [Prasad Girish](#); [Griffin Adrienne E](#); [Hall Charles A](#); [Cottrell Mark E](#)  
**Subject:** FW: Xapo Debuts Bitcoin Debit Cards  
**Date:** Thursday, April 24, 2014 5:44:15 PM

---

Fyi...

---

**From:** Utzke David J [<mailto:David.Utzke@irs.gov>]  
**Sent:** Thursday, April 24, 2014 4:41 PM  
**To:** Edelman Edward M; Berman Samuel; Welsh Donna J; Carter Kareem A  
**Cc:** Griesbach David; Gambaryan Tigran  
**Subject:** Xapo Debuts Bitcoin Debit Cards

Just out today is news that Xapo, the maker of underground bitcoin vaults, debuted a debit card on Thursday, marking its latest bid to woo more customers to the virtual currency. Xapo, which currently offers two main services, a vault for people to store their bitcoins and a wallet to facilitate transactions, says the Xapo debit card will function like a normal debit card, except one backed by bitcoins instead of traditional currency. **The card will be linked to the customer's Xapo Wallet and will function anywhere traditional debit cards or credit cards are used, off or online.** The digital version of the card is free, but a physical card will cost \$15.

"We are focused on making bitcoin more secure and safer and making it easier to use, the debit card is something that our customers have requested," said Wences Casares, the founder and CEO of Xapo.

**Xapo plans to ship out cards in two months** and expects to use the payment networks of both MasterCard MA and Visa. **"We are partnering with banks in the U.S. and Europe that use both MasterCard and Visa networks,"** a Xapo spokeswoman said. "We anticipate it's very likely that the banks will in many cases be using the MasterCard network. But this will be made final at the time of issue."

MasterCard doesn't currently have a relationship with Xapo, according to a MasterCard spokesman.

Mr. Casares believes that it is possible to create a system where average consumers feel comfortable and secure about holding and using bitcoins. To that end, Xapo owns a network of underground vaults to store users' bitcoin information. The company charges an annual fee to store deposits but all deposits are fully insured. The wallet and debit card service are free, except for the \$15 charge to get a physical copy of the debit card.

*David J Utzke*, PhD, MAFF, CFE, CFI, CESA  
International Technical Specialist,  
Offshore Compliance, IIC, LB&I  
Phone: 626.927.1237  
Fax: 855.702.8175

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** FW: Xinhua: China Warns Against Use Of Bitcoin (Colin May)  
**Date:** Thursday, December 05, 2013 11:09:28 AM

---

Fyi...

-----Original Message-----

From: Berman Samuel  
Sent: Thursday, December 05, 2013 10:44 AM  
To: Marshall William P; Gillen Duane M  
Cc: Ronk Alice L; Welsh Donna J  
Subject: FW: Xinhua: China Warns Against Use Of Bitcoin (Colin May)

Bill and Duane,

Rod forwarded the following article, which says the Chinese government has taken a stand against calling bitcoins a currency,

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

-----Original Message-----

From: Lundquist Rodney A [<mailto:Rodney.A.Lundquist@irs.gov>]  
Sent: Thursday, December 05, 2013 10:03 AM  
To: Berman Samuel  
Subject: FW: Xinhua: China Warns Against Use Of Bitcoin (Colin May)

Sam,

Got this from the AML Task Force.

-----Original Message-----

From: Colin May [<mailto:Colin.May@bjs.doc.gov>]  
Sent: Thursday, December 05, 2013 8:53 AM  
To: Semesky, Donald C. (DEA); 'Stephenie.M.Lord@ice.dhs.gov'; Colin May; 'Walter.Woosley@fincen.gov'; Greitzer Robert E; 'brian.swain@usss.dhs.gov'; Vardaman, John (John.W.Vardaman@usdoj.gov); Bricker, Doug; Waldrop, Tandra D. (FBI); 'mike.hatfield@ice.dhs.gov'; Vanderburg, Pamela J. (FBI); Lopez, Jonathan; Ramachandran, Seetha; Hicks, Pamela; Mignano, Joseph; McCoy, Leah; Gunderson, Jeannette; Day, M. Kendall; Ramaswamy, Jaikumar; 'Brooker, Stephanie'; 'Goepp, Katharine'; 'dsemesky.foc@gmail.com'; 'Sandra.Garcia@treasury.gov'; 'pedro.berdecia@dhs.sgov.gov'; Bender, Laurie; Stolt Sandra L; Lundquist Rodney A; Stolt Sandra L; McKnight, Brian M. (DEA); Mosier, Michael  
Subject: FW: Xinhua: China Warns Against Use Of Bitcoin (Colin May)

Colleagues,

Interesting note from China on their interpretation of the Bitcoin issue.

Hope all is well and everyone has a good holiday season. Be safe!  
Colin

-----Original Message-----

From: OSCINFO@rccb.osis.gov [<mailto:OSCINFO@rccb.osis.gov>]

Sent: Thursday, December 05, 2013 5:31 AM

Subject: OSC: Xinhua: China Warns Against Use Of Bitcoin (Colin May)

Note: The following OSC material is being emailed to you based on a subscription.

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POW Logo

Xinhua: China Warns Against Use Of Bitcoin

CHR2013120537556969 Beijing Xinhua in English 0958 GMT 05 Dec 13

[Computer selected and disseminated without OSC editorial intervention]

BEIJING, Dec. 5 (Xinhua) -- China's financial and payment institutions should not accept Bitcoin as legal tender, with Chinese authorities on Thursday warning of the risks related to the digital currency.

The warning was issued in a notice jointly released by the People's Bank of China (central bank) and four ministerial departments -- Ministry of Industry and Information Technology, China Banking Regulatory Commission, China Securities Regulatory Commission and China Insurance Regulatory Commission.

The warning is aimed at protecting the property rights of the public, safeguarding the Renminbi status as a fiat currency, preventing money laundering and maintaining financial stability in China, said the notice.

The notice said Bitcoins are not issued by any monetary authorities and does not contain the currency function of being legal tender with a government decree. It does not have the same legal status as fiat currencies, and should not be circulated in the market.

The notice, however, admitted Chinese people can make Bitcoin transactions at their own risk on the Internet.

It demanded financial and payment institutions not to price their products or services with Bitcoins, or to engage in transactions involving Bitcoins, or to accept insurances related to Bitcoins.

The notice also told Bitcoin-transaction online platforms to register at China's telecom industry regulator in accordance with laws.

The Chinese central bank will continue monitoring activities involving Bitcoins and related risks, it added.

Bitcoins, which are stored in a virtual wallet, can pass from person to person around the world in secret, allowing users to remain anonymous. It bypasses both banks and banking regulators worldwide.

The Chinese public became aware of the digital currency in April, when movie star Jet Li's One Foundation received a donation of several hundred Bitcoins to help quake-stricken Sichuan Province.

Bitcoin has seen another round of price surges worldwide this week, with the price of one Bitcoin at

about 1,117 U.S. dollars on Wednesday on Mt. Gox, the world's best-known Bitcoin trading platform.

An estimated 1.8 million Bitcoins were traded in November on BTC China, an online platform with the highest Bitcoin trading volume in the world.

[Description of Source: Beijing Xinhua in English -- China's official news service for English-language audiences (New China News Agency)]

#### Source Metadata

Source Name

Xinhua

Source Medium(s)

NEWS AGENCIES

Source City

Beijing

Source Country

China

Source Start Date

12/5/2013 - 0958 GMT

Source End Date

12/5/2013

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Topic Country(s)

China

Topic Region(s)

Asia

Topic Subregion(s)

East Asia

Event(s)

International Organization(s)

Topic(s)

DOMESTIC ECONOMIC, ENVIRONMENT, TELECOM, DOMESTIC POLITICAL, INTERNATIONAL POLITICAL

#### Media Metadata

Program Title(s)

Program Type(s)

Speaker(s)

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**From:** [Berman Samuel](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Aloof Deborah](#)  
**Subject:** FW: Yes, you can buy drugs with bitcoins. You can also buy them with cash.  
**Date:** Thursday, October 17, 2013 5:33:54 PM  
**Attachments:** McAfee white paper - Oct .pdf

---

Donna,

Duane forwarded a recent Washington Post article on virtual currencies (available at <http://www.washingtonpost.com/blogs/the-switch/wp/2013/10/16/yes-you-can-buy-drugs-with-bitcoins-you-can-also-buy-them-with-cash/>). I have attached the McAfee whitepaper that is mentioned in the article, for your information.

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Gillen Duane M [<mailto:Duane.Gillen@irs.gov>]  
**Sent:** Thursday, October 17, 2013 8:29 AM  
**To:** Larsen Eric R; Ronk Alice L; Berman Samuel  
**Subject:** FW: Yes, you can buy drugs with bitcoins. You can also buy them with cash.

FYI

*Duane Gillen*  
Phone 240-613-5488  
Cell Phone 202-641-8548  
SB/SE Director Abusive Transactions and Technical Issues

---

**From:** Marshall William P  
**Sent:** Thursday, October 17, 2013 8:04 AM  
**To:** Gillen Duane M; Chagami Cathy E; Lightfoot Mary A; Lincoln Sheri L; McCarthy Kevin F; O'Rourke Maureen; Whitehall Michael C  
**Subject:** Yes, you can buy drugs with bitcoins. You can also buy them with cash.

### The Switch

# Yes, you can buy drugs with bitcoins. You can also buy them with cash.

By [Andrea Peterson](#)



Cold, hard cash and bitcoins really aren't that different. (Jim Urquhart/Reuters)

Cybersecurity company McAfee released [a whitepaper](#) Wednesday looking at virtual currencies and "their use in cybercrime" titled "Digital Laundry." The report details the history of such digital currencies from e-gold to Bitcoins with a focus on their use for money laundering and cyberattacks. But it also says that virtual currencies "act as the main method of payment for illicit products such as drugs, as well as for other products and services that enable cybercrime."

That may be true online in recent years where underground black markets like [Silk Road](#) and [Atlantis marketplace](#) have cropped up. But it seems to ignore that there is another tried and true way to pay for illicit goods and services: Cold, hard cash.

The report identifies a virtual currency as being different from electronic money because the latter "uses a traditional unit of currency and is regulated" while the former is "unregulated and use an invented currency." But as a general rule, all currencies are "invented" to some degree, virtual or no. They function in society based on whether or not other individuals will accept them in exchange for goods and services. So a currency's value fluctuates based on how society perceives its worth. It's the reason exchange rates between different currencies are fluid. Yes, regulation helps bring an air of legitimacy to a currency -- especially when that regulation is backed by a government that is perceived as stable. But the same basic principles apply to currency in the digital and physical realm.

And while it's certainly true that we have seen virtual currencies be used for illicit purposes, their physical counterparts have served the same role for far longer. The anonymity offered by Bitcoins is not substantially different from the anonymity of circulating paper dollars. In fact, the McAfee paper itself recounts a conversation in an online forum that illustrates how paper can be used for illicit purposes. In that conversation, one member of an online forum asked for advice on the best way to anonymously transfer money to a friend. One response suggested mailing cash through the U.S. postal service.

There are some obvious benefits to virtual options -- among them speed and reliability. A virtual currency transfer can be near instantaneous as opposed to the few days it could take the cash to move through the postal system. And there's also always a chance that your package might get lost in the mail, whereas it's easier to get confirmation that payments have been received online.

McAfee acknowledges that Bitcoin has legitimate uses. But it also ends on a warning note, arguing that "ignoring this market opportunity is likely to cost potential legitimate investors significant revenue, but failure to address the potential risks may cost a lot more."

But I don't see anyone shying away from accepting paper dollar bills because someone, somewhere is using that same medium to buy cocaine.

**From:** Rogers John W III  
**To:** Welsh Donna J  
**Cc:** Dubert Alexa T  
**Subject:** FYI on Bitcoin  
**Date:** Monday, January 27, 2014 12:57:39 PM

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<http://www.bloomberg.com/news/2014-01-27/men-tied-to-silk-road-bitcoin-exchange-subject-of-u-s-charges.html>

**From:** [Dinwiddie Scott K](#)  
**To:** [Brickates Lewis K](#); [Tombul Bridget E](#); [Kane Christopher F](#); [Jackson William A](#); [Montemurro Michael J](#); [Pflanz Shareen S](#); [Welsh Donna J](#); [Moriarty John P](#)  
**Subject:** FYI: Laura Saunders column on virtual currency: online now and in the Wall Street Journal on Saturday  
**Date:** Friday, June 24, 2016 3:06:16 PM

---

FYI.

**Scott K. Dinwiddie**  
Associate Chief Counsel  
Income Tax and Accounting  
Room 4052  
202-317-4624

---

**From:** Smith Eric L [<mailto:Eric.L.Smith@irs.gov>]  
**Sent:** Friday, June 24, 2016 12:56 PM  
**To:** Dinwiddie Scott K; Cromling Candice V; Leas Matthew F; Friedland Bruce I; Nadal Yadira G; Patterson Dean J; Burke Anthony; Dinh Leuyen D; Migazzi Donna J; Stepter Deirdre H; Eguren Sara L; Rice Karin M; Southwell James E; Brown Barlo; Maccani Elcy J; Hancey Chad A  
**Subject:** Laura Saunders column on virtual currency: online now and in the Wall Street Journal on Saturday

<http://www.wsj.com/articles/the-latest-bitcoin-hurdle-how-to-tax-it-1466781291>

# The Latest Bitcoin Hurdle: How to Tax It

IRS hasn't addressed many important tax matters regarding digital currencies



ENLARGE

Tax questions are one of several hurdles on the path to broader acceptance of digital currencies. Above, a bitcoin sign is seen in Toronto. *PHOTO: REUTERS*



By  
**LAURA SAUNDERS**  
June 24, 2016 11:14 a.m. ET  
[1 COMMENTS](#)

A little more than two years after the Internal Revenue Service issued bare-bones guidance on bitcoin and other digital currencies, the agency still hasn't addressed many important tax matters affecting them.

The American Institute of CPAs sent the IRS a letter earlier this month requesting clarifications on 10 issues, including the tax status of small transactions and rules for donating digital currencies to charity.

“We’d like to know the tax rules before they turn into audit issues,” says Annette Nellen, a professor at San Jose State University in Silicon Valley, who helped draft the AICPA’s request.

The tax questions are one of several hurdles on the path to broader acceptance of digital currencies—money that exists only online and isn’t backed by any government. Bitcoin and its smaller rivals, such as ether, ripple and litecoin, are maintained by a network of computers that process and verify transactions using them.

Digital currencies gained favor in 2013 and 2014 when federal and state regulators issued rules for them and businesses such as [Overstock.com](#) and the Sacramento Kings basketball team said they would accept bitcoin payments. But volatility and scandals, such as [the 2014 failure](#) of Mt. Gox, an early bitcoin exchange, put off some investors.

According to Blockchain.info, which tracks bitcoin data, the number of bitcoin transactions a day recently was 240,000, compared with 50,000 two years ago. The price of bitcoin peaked at more than \$1,100 in late 2013 before dropping to a low of about \$200 in early 2015, and it was recently above \$600.

Given this growth, the IRS has already conducted audits of taxpayers holding bitcoin, according to Bryan Skarlatos, a tax lawyer with Kostelanetz & Fink in New York. Some clients under audit paid his fee using bitcoin, he says.

A spokesman for the IRS declined to address specific issues on digital currencies but said the agency values comments it receives, especially from groups of tax professionals.

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Advertisement

Many bitcoin advocates were delighted with the IRS’s first ruling on digital currencies in April 2014. It held that digital currencies are property, akin to real estate or stocks.

Thus the profit on an investment in such currencies can be eligible for favorable capital-gains tax rates if it's held longer than a year, and losses can be used to offset gains. "The ruling was incredibly helpful," says Barry Silbert, CEO of Digital Currency Group, an active investor in the industry.

The downside, for people who want to use bitcoin as a medium of exchange, is that each transaction can involve the sale of investment property. So bitcoin holders who use it to buy lunch could have an investment gain or loss with each sandwich, as they would if they paid with a stock.

Some bitcoin users haven't focused on this requirement. Douglas Hutchings, a solar-power entrepreneur in Fayetteville, Ark., says he has used bitcoin to buy about \$1,500 of products sold through [Amazon.com](https://www.amazon.com) at a 15% to 20% discount this year. He has used online company Purse.io to arrange the transactions, but he hasn't thought much about the tax issues. "I need to check, but I think there wasn't much change" between when he bought and sold, he says.

Digital currency experts hope the IRS will exempt "de minimus" bitcoin transactions from onerous reporting, much as U.S. taxpayers don't have to report small gains or losses on foreign currencies they use when they travel abroad. Robert Willens, a New York-based tax expert, thinks the IRS has the authority to allow such an exemption without approval by Congress, but "it will be hard to design an exception that's workable and can't be abused."

Meanwhile, firms are designing software to help with the bookkeeping. Libra.tech, a company based in San Francisco, has a web product that automatically tracks purchases and sales of digital currencies to ease record-keeping headaches.

Others accept digital currencies despite the lack of IRS clarification. Pensco Trust Company, a San Francisco-based firm specializing in the custody of alternative assets in retirement accounts, accepts bitcoin for IRAs if it's within a trust or limited-liability company.

Fidelity Charitable, a foundation affiliated with Fidelity Investments, is also accepting contributions of bitcoin to its individual charitable accounts known as [donor-advised](#)

funds.

Thus bitcoin donors could reap a charitable deduction for the full market value of their investment while avoiding tax on its appreciation—a tax break that has long been available to investors in assets like stocks or real estate.

“Fidelity Charitable accepts contributions of bitcoin only from known donors and treats the contribution as we would any other complex asset—it is sold and the proceeds go into a donor-advised fund for grant-making to charities,” says Matt Nash, an executive with Fidelity Charitable.

**Write to** Laura Saunders at [laura.saunders@wsj.com](mailto:laura.saunders@wsj.com)



**From:** Jones, Ronald W  
**To:** Reese-Jacobs Donna Y; Smith Molly M; Tuzynski Laurie; Canada Wanda; Rutstein Joel S; Koon Jodi L; Dobyns Becki J; Fahey Douglas A; Welsh Donna J; Larsen Eric R; Gillen Duane M; Warnken Todd A; Landsmann Michael A; Holmes Deborah L; Hall Charles A; \*SBSE GAO-TIGTA GTL  
**Cc:** Arkin, Jeffrey L; Novak, Danielle N; Hanshaw, Lois; White, James R  
**Subject:** GAO JC 451007 exit conference agenda and discussion topics  
**Date:** Friday, March 22, 2013 2:35:16 PM  
**Attachments:** ATLANTA-#447789-v6-451007 EXIT CONFERENCE AGENDA AND DISCUSSION TOPICS.DOCX

---

Donna, subject (attached) is for those participating in our meeting next week (3/27). As always, thanks for your help and have a good weekend, Ron

Ronald W. Jones,  
Senior Analyst, Tax Issues  
Strategic Issues  
U.S. Government Accountability Office  
2635 Century Parkway, Suite 700  
Atlanta, GA 30345  
e-mail: [jonesrw@gao.gov](mailto:jonesrw@gao.gov)  
voice: (404) 679-1975  
fax: (404) 679-1819  
For information about GAO: [www.gao.gov](http://www.gao.gov)  
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-----Original Appointment-----

**From:** Reese-Jacobs Donna Y  
**Sent:** Monday, March 18, 2013 7:49 AM  
**To:** Reese-Jacobs Donna Y; Smith Molly M; Tuzynski Laurie; Canada Wanda; Rutstein Joel S; Koon Jodi L; Dobyns Becki J; Fahey Douglas A; Welsh Donna J; Larsen Eric R; Gillen Duane M; Jones, Ronald W; Warnken Todd A; Landsmann Michael A; Holmes Deborah L; Hall Charles A; \*SBSE GAO-TIGTA GTL  
**Subject:** GAO JC 451007 Exit Conference  
**When:** Wednesday, March 27, 2013 1:00 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).  
**Where:** Dial in number: [REDACTED] access code [REDACTED]

(b)(7)(E)

**From:** [Baumgarten Peter J](#)  
**To:** [Welsh Donna J](#); [Fahey Douglas A](#)  
**Subject:** Germany speaks out on the taxation of Bitcoin  
**Date:** Monday, July 01, 2013 7:58:09 AM  
**Attachments:** [Germany Provides Leadership for Bitcoin Tax Clarity.doc](#)

---

**From:** [Fahey Douglas A](#)  
**To:** [&FIP Review](#); [&PA Published Guidance Reviewers](#); [&PSI MGR Review - Green Sheet](#); [&TEGE Review - Green Sheet](#); [Alexander William D](#); [Arterton Cameron](#); [Axelrod Lawrence M](#); [Berman Samuel](#); [Blum Steven H](#); [Skjel Patricia Brav](#); [Cervantes Johnny](#); [Corwin Erik H](#); [Cromling Candice V](#); [Drexler Kenneth J](#); [Ebeid Munir I](#); [Elliott Nicole M](#); [Fattman Stephen P](#); [Ford Gloria L](#); [Freeman Anne C](#); [Freeman Curtis L](#); [Harriet Alan J](#); [Kaizen Mark S](#); [Kane Thomas J](#); [Keyso Jr. Andrew J](#); [Kirbabas Mark J](#); [Kroening Linda M](#); [Kelley Lee - OTP](#); [McClanahan Patricia](#); [Minsky Joanne B](#); [Moe Debra K](#); [Moriarty John P](#); [Moss Forrest Jacqueline](#); [Musher Steven A](#); [Olson Nina E](#); [Rolfes Danielle](#); [San Juan Eric A](#); [Smith Amber \(Washington DC\)](#); [Smith Lon B](#); [Stern Christopher B](#); [Thomas Thomas R \(Division Counsel\)](#); [Wall Judith M](#); [Wilkins William J](#); [Zarlenga Lisa \(OTP\)](#)  
**Cc:** [Khoury Mireille](#); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Greensheet Circulation - Notice on Virtual Currencies  
**Date:** Friday, February 14, 2014 1:13:08 PM  
**Attachments:** [Bitcoin Notice 2-14-14.docx](#)

---

## EXPEDITED REVIEW REQUESTED

Attached is a proposed notice that provides guidance in a Q&A format on some of the tax consequences arising from transactions using virtual currencies, including Bitcoin. The notice is targeted for release by the end of this month, so please submit any comments to me no later than COB Friday 2/21/14.

Doug Fahey  
**NEW PHONE 202-317-4619**

**From:** [Tan Carol B](#)  
**To:** [Welsh Donna J](#)  
**Subject:** Intl Assignments  
**Date:** Thursday, March 28, 2013 2:21:26 PM

---

Hi Donna - Hope you are doing well and sounds like it will be an interesting discussion! I had sent everything over to Natalie McKinney to have the case assigned. Most likely it will be Anne Shelburne but Natalie will let you know. Natalie has also asked me to pass the word that we have an "INTL Assignments" mailbox so when we do get a request, to send it to the INTL assignments as well. Feel free to copy me but this is just so we have coordination within ACCI.

Carol

**From:** [Shepherd Neil D](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Shepherd Neil D](#)  
**Subject:** IT&A's Questions & Answers  
**Date:** Thursday, August 15, 2013 1:39:27 PM

---

Super, Keith. That's very helpful.

---

**From:** Aqui Keith A  
**Sent:** Thursday, August 15, 2013 1:08 PM  
**To:** Shepherd Neil D  
**Cc:** Welsh Donna J  
**Subject:** RE: Committee on Homeland Security and Governmental Affairs

Thank you very much. On 7/30, Donna transmitted a draft of ITA's suggestions to Doug Fahey in our front office. Once the suggestions are approved, we shall share them with the rest of the group.

---

**From:** Shepherd Neil D  
**Sent:** Thursday, August 15, 2013 12:33 PM  
**To:** Aqui Keith A  
**Cc:** Richards John B; Burns Gregory; Shepherd Neil D  
**Subject:** Committee on Homeland Security and Governmental Affairs

Greetings, Keith. Here's a link to an article discussing the letter from the Committee on Homeland Security and Governmental Affairs relating to virtual currencies. The letter to Secretary Napolitano is attached below. Evidently, the Committee sent something similar to this to the Department of the Treasury.

<< File: Virtual Currency Letter.pdf >>

---

**From:** Shepherd Neil D  
**Sent:** Wednesday, August 14, 2013 12:59 PM  
**To:** Welsh Donna J  
**Cc:** Cook Janine; Camillo Lynne A; Carlino Paul J; Munroe David; Shepherd Neil D  
**Subject:** Senate Homeland Security and Government Affairs Committee

Greetings, Donna. Evidently, the Senate Homeland Security and Government Affairs Committee on Monday sent letters to several agencies [including the Department of the Treasury] requesting that "they disclose their virtual currency policies, how they developed them, how agencies are coordinating and finally what they plan to do going forward." See the attached link. I couldn't find the letter on the internet, but whoever is coordinating our efforts with main Treasury should know about it--if they don't already. We don't want to be freelancing on this thing.

Many thanks.

<http://www.politico.com/story/2013/08/congress-starts-looking-into-bitcoin-95464.html>

**From:** Shepherd Neil D  
**To:** Cook Janine; Camillo Lynne A; Carlino Paul J; Richards John B; Munroe David  
**Cc:** Aqui Keith A; Shepherd Neil D  
**Subject:** IT&A's Questions & Answers  
**Date:** Thursday, August 15, 2013 1:38:15 PM

---

Per Keith's e-mail below, IT&A appears to be about where we are. Note that IT&A and TEGE aren't the only Divisions involved in responding to the questions.

---

**From:** Aqui Keith A  
**Sent:** Thursday, August 15, 2013 1:08 PM  
**To:** Shepherd Neil D  
**Cc:** Welsh Donna J  
**Subject:** RE: Committee on Homeland Security and Governmental Affairs

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<http://www.politico.com/story/2013/08/congress-starts-looking-into-bitcoin-95464.html>

**From:** [Montemurro Michael J](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** Keyso on Bit Coin  
**Date:** Thursday, March 26, 2015 6:58:40 AM  
**Attachments:** [Keyso on BitCoin.pdf](#)

---

Donna/Keith — fyi.

Michael J. Montemurro  
CC:ITA:4 – ☎ : 202.317-4744  
Rm. 4243 (enter room 4241)

**From:** Montemurro Michael J  
**To:** Welsh Donna J; Agui Keith A  
**Subject:** litecoins  
**Date:** Thursday, July 18, 2013 7:38:25 AM

---

Keith/Donna — fyi.

<http://www.efinancialnews.com/story/2013-07-05/forget-bitcoins-litecoins-are-the-next-new-thing>

<http://en.wikipedia.org/wiki/Litecoin>

Michael J. Montemurro

CC:ITA:4 — ' : 202.622.7101

Rm. 4243-W (enter through Rm. 4241)

[michael.j.montemurro@irs.counsel.treas.gov](mailto:michael.j.montemurro@irs.counsel.treas.gov)



**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#)  
**Date:** Wednesday, April 02, 2014 11:34:00 AM  
**Attachments:** [Taxpayer \(Michael Carter\).pdf](#)

---

How do we handle requests for appearances, live and by telephone?

**From:** [Montemurro Michael J](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Date:** Monday, March 24, 2014 11:55:28 AM  
**Attachments:** [BitCoin Article.pdf](#)

---

Donna/Keith — fyi, a recent article on BitCoins.

Michael J. Montemurro

CC:ITA:4 – Rm. 4243 (enter room 4241)

Tel: 202.317.4744

**From:** [Baumgarten Peter J](#)  
**To:** [Welsh Donna J](#)  
**Date:** Thursday, March 28, 2013 9:04:09 AM

---

## NetNet With John Carney

# Bitcoin Bonanza: Cyprus Crisis Boosts Digital Dollars

Text Size javascript:void(0);Published: Wednesday, 27 Mar 2013 | 12:53 PM ET

By: [Jeff Cox](#)

CNBC.com Senior Writer

Casascius | Wikipedia

They won't make a sound no matter how many of them you try to toss in a bucket, and you can't pitch them in a fountain and wish for good luck. But make no mistake, bitcoins are getting big.

The online alternative currency, previously little more than a curiosity in financial markets since its 2009 inception, has zoomed in trading value since the Cyprus banking crisis erupted two weeks ago.

With fears spreading that even insured deposits might not be safe in similar nations hit by banking crises, those looking for a haven to store their wealth have fled to the complicated world of digital cash.

"Incremental demand for bitcoin is coming from the geographic areas most affected by the Cypriot financial crisis —individuals in countries like Greece or Spain, worried that they will be next to feel the threat of deposit taxes," Nicholas Colas, chief market strategist at ConvergeX, said in a report on the startling trend.

(*Read More: [It's Back! Dark Cloud From Europe Stalls US Stock Market Bull Run](#)*)

Bitcoins operate on a network that, at least on the surface, resembles a typical exchange on the capital markets. Buyers can exchange their paper currencies for bitcoins and use them wherever they are accepted. Sellers can exchange their bitcoins back for their original currency.

But the value of the currency has been anything but typical.

Santelli: 'I Don't Look at Gold as Gold Anymore'

Rick Santelli explains why he thinks "the reign of gold as the Ayn Rand end product" is over.

[Bitcoincharts.com](#) lists the value of bitcoins compared to other currencies, including U.S. and Canadian dollars, euros and pounds.

On one of the U.S. currency exchanges, labeled "Mt. Gox," the bitcoin value has zoomed to more than \$87 in Wednesday trade. That represents close to a 20 percent gain over just the past week, a one-month gain of 41 percent and nearly a quintupling of value in the past year.

The "Mt. Gox" euro trading has seen numbers nearly identical to the dollar pairing.

(*Read More : [Cyprus Controls to Hit Foreign Transactions](#)* )

A more sober perspective might suggest that bitcoins are at best a momentary bubble and at worst a risky chance to take considering their novelty.

But the trend also exemplifies just how nervous cash-holders are over the European situation.

"This is a clear sign that people are looking for alternative ways to get their money out of the country," said Christopher Vecchio, currency analyst at DailyFX. "If we're going to talk about the stability of the euro and whether or not there are going to be capital controls in place not just in Cyprus but around the euro zone, I think there is some efficacy behind bitcoins as an alternative liquidity vehicle."

The role of alternative currency had been falling largely to gold over the past several years. But the precious metal has been on a pretty aggressive downward path since its most recent peak in October.

(*Read More : [CNBC Explains the Wild World of Currency Trading](#)* )

Gold advocates, though, continue to stress its importance as a safe haven and store of wealth.

"Why would anyone trust an electronic form of money that could get hacked and then diluted into oblivion?" said Michael Pento, president of Pento Portfolio Strategies. "We already have a form of money that is indestructible and whose supply cannot be increased by any government or individual decree. It's called gold."

Yet currency pros are at least willing to give bitcoins the benefit of the doubt as a legitimate trading vehicle as situations like Cyprus continue to crop up.

The \$964 million bitcoin network pales to the \$4 trillion a day in total currency trading, but it's clearly growing.

"Right now it seems safe. Personally it wouldn't be my preferred vehicle to trade money because it's unregulated," Vecchio said. "But people are deeming it legitimate even though it's not backed by a sovereign. That could be the attraction behind it. There's no sovereign credit risks to bitcoins."

*-By CNBC.com's Jeff Cox. Follow him on Twitter @JeffCoxCNBCcom.*

**From:** [Friedland Bruce I](#)  
**To:** [Keyso Jr. Andrew J](#); [Fahey Douglas A](#)  
**Cc:** [Patterson Dean J](#)  
**Subject:** MEDIA INQUIRY: Comment from Bitcoin Foundation  
**Date:** Wednesday, March 26, 2014 3:59:27 PM

---

A reporter just sent over this blog comment from an entity called the Bitcoin Foundation.

I don't think we should respond or comment, but I wanted to share with you.

Bruce  
202-317-6221

## Blog

# IRS Guidance Further Legitimizes Bitcoin and Provides Clarity, but Demands Unrealistic Reporting

Marco Santori, Chairman, Regulatory Affairs Committee    Mar 26 2014

Yesterday, the United States Internal Revenue Service (IRS), a bureau of the Department of the Treasury, published guidance on how digital currencies like Bitcoin should be treated by Americans for tax reporting purposes. In short, the IRS determined that digital currencies should be treated as property, not as currency, regardless of the way in which they are used.

The Bitcoin Foundation appreciates the IRS' hard work in providing much-needed clarity to those transacting in digital currencies. The digital currency industry has, on the whole, welcomed greater regulatory clarity for its ability to foster innovation in this critical and emerging space.

However, tax treatment of Bitcoin as a property, and not a currency, may make compliance with tax laws unnecessarily cumbersome and imposes untenable recording and reporting requirements on its users. This is an unwelcome result for most bitcoin users, but is particularly detrimental to those that Bitcoin can help the most: small business and underbanked individuals. When it is used as a currency, Bitcoin should be a frictionless means of paying for goods and services. The tax laws

currently permit individuals to ignore small gains and losses in foreign currencies. Similar treatment for digital currencies would harmonize the law with the way most people actually use digital currencies. Artificially characterizing this use case as a transaction in property would make one of the most innovative features of this technology hard to use for those who wish to be compliant.

While the Bitcoin Foundation welcomes greater clarity in the regulatory treatment of the many uses for the Bitcoin protocol, IRS' approach to developing this guidance was not an inclusive one. IRS did not, in particular, seek meaningful input from the digital currency industry or the public at large. As a result, the guidance creates a poor framework for innovation. To the extent that the tax code compelled this unwieldy outcome, a more open process would have identified the limitations of the statutory language and facilitated a dialogue between IRS and the appropriate legislators to address those limitations.

The Bitcoin Foundation welcomes the opportunity to provide more formal comment to IRS in the coming weeks.

The official notice from the IRS can be found [here](#).

Further details, including FAQ, can be found in [Notice 2014-21](#).

**From:** [Welsh Donna J](#)  
**To:** [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Aqui Keith A](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** Mining - Bitcoin  
**Date:** Thursday, March 20, 2014 11:05:14 AM

---

<https://en.bitcoin.it/wiki/Mining>

wiki reference the Bitcoin public transaction ledger so we are good with that.

**From:** [Stahl Raymond J](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Cc:** [Henderson Joseph S](#)  
**Subject:** Monday's meeting  
**Date:** Friday, May 01, 2015 5:55:44 PM

---

Donna/Keith –

Did we get a briefing paper or any other material related to Monday's 10am meeting?

Best wishes,  
Ray



**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Subject:** My Bitcoin Befuddlement - NYTimes.com  
**Date:** Thursday, April 10, 2014 11:28:42 AM

---

A little Bitcoin humor.

[#](http://www.nytimes.com/2014/04/06/business/mutfund/my-bitcoin-befuddlement.html?src=recg)

**From:** [Guidewire](#)  
**To:** [Keyso Jr, Andrew J](#)  
**Subject:** N-2014-21: FAQs on virtual currency  
**Date:** Tuesday, March 25, 2014 2:40:45 PM

---



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IRS GuideWire

March 25, 2014

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**Issue Number: N-2014-21**

### Inside This Issue

[Notice 2014-21](#) explains how existing general tax principles apply to transactions using virtual currency, including Bitcoin.

It will appear in IRB 2014-16 dated April 14, 2014.

[Back to Top](#)

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**From:** [Shepherd Neil D](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Camillo Lynne A](#); [Shepherd Neil D](#)  
**Subject:** Notice 2014-21 Virtual Currencies  
**Date:** Wednesday, March 11, 2015 1:23:11 PM

---

Greetings, Keith, and thanks for the heads up. I'd like to review the referenced paper before making a commitment to attend the meeting. There's been very little controversy concerning the employment tax implications of bitcoins.

Please forward the paper when you receive it and we'll go from there.

---

**From:** Aqui Keith A  
**Sent:** Wednesday, March 11, 2015 12:25 PM  
**To:** Stahl Raymond J; Griffin Adrienne E; Shepherd Neil D; Erwin Mark E  
**Cc:** Welsh Donna J  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

IT&A plans to attend the meeting. Would you or a representative be available?  
Thanks.

---

**From:** Welsh Donna J  
**Sent:** Monday, March 09, 2015 5:48 PM  
**To:** Keyso Jr. Andrew J  
**Cc:** Montemurro Michael J; Aqui Keith A  
**Subject:** RE: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Hi Andy, The California Bar would like to have a Counsel participant meet on May 4 with them to discuss taxation of virtual currency. They will prepare a paper on the topic and would like to discuss their written views with Counsel. I would like to meet with them if you agree. [REDACTED]

(b)(6)

(b)(6)

Thanks!

---

**From:** Aqui Keith A  
**Sent:** Monday, March 09, 2015 11:39 AM  
**To:** Welsh Donna J  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

FYI

---

**From:** Johnson LaTashia M  
**Sent:** Monday, March 09, 2015 11:36 AM  
**To:** Aqui Keith A  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

See below

---

**From:** staff [<mailto:staff@gazfinancial.com>]

**Sent:** Friday, March 06, 2015 3:39 PM

**To:** Notice Comments

**Subject:** Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Hello,

I have been drafting a paper with respect to aspects of tax treatment of virtual currencies, specifically bitcoin. This paper is for the annual D.C. Bar Delegation in early May for the Tax Sections of the California State Bar and the Los Angeles County Bar Association (LACBA). Our meeting with the IRS is Monday, May 4 at 9 or 10AM. Is it possible to get someone at the IRS who took part in drafting Notice 2014-21 to attend?

Thank you.

*Regards,*

*Paul McCullum, J.D.*

ZLO | Zbylut Law Office

GAZ | GAZ Financial Services

121 West Lexington Drive

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Glendale, CA 91203

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F | (626) 737-9637

E | [staff@gazfinancial.com](mailto:staff@gazfinancial.com)

W | [www.gazfinancial.com](http://www.gazfinancial.com)

**From:** [Shepherd Neil D](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Shepherd Neil D](#)  
**Subject:** Notice 2014-21 Virtual Currencies  
**Date:** Thursday, March 12, 2015 11:07:04 AM

---

Thank you!

---

**From:** Aqui Keith A  
**Sent:** Thursday, March 12, 2015 11:06 AM  
**To:** Erwin Mark E; Stahl Raymond J; Griffin Adrienne E; Shepherd Neil D  
**Cc:** Welsh Donna J  
**Subject:** RE: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Upon receipt, I will provide the paper to all interested parties.

---

**From:** Erwin Mark E  
**Sent:** Thursday, March 12, 2015 8:12 AM  
**To:** Aqui Keith A; Stahl Raymond J; Griffin Adrienne E; Shepherd Neil D  
**Cc:** Welsh Donna J  
**Subject:** RE: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

I will be out of the office that week. Ray may be interested – he's currently out and returning Monday. Do you have a copy of the paper or know what the focus is?

Thanks for the invitation.

Mark

---

**From:** Aqui Keith A  
**Sent:** Wednesday, March 11, 2015 12:25 PM  
**To:** Stahl Raymond J; Griffin Adrienne E; Shepherd Neil D; Erwin Mark E  
**Cc:** Welsh Donna J  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

IT&A plans to attend the meeting. Would you or a representative be available?  
Thanks.

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**From:** Welsh Donna J  
**Sent:** Monday, March 09, 2015 5:48 PM  
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**Cc:** Montemurro Michael J; Aqui Keith A  
**Subject:** RE: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Hi Andy, The California Bar would like to have a Counsel participant meet on May 4 with them to discuss taxation of virtual currency. They will prepare a paper on the topic and would like to discuss their written views with Counsel. I would like to meet with them if you agree. [Provided, of course, i am not in the hospital bc of a medical emergency like i was at the ABAJ].

Thanks!

**From:** [Shepherd Neil D](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Shepherd Neil D](#)  
**Subject:** Notice 2014-21 Virtual Currencies  
**Date:** Wednesday, March 11, 2015 1:32:23 PM

---

Many thanks.

---

**From:** Aqui Keith A  
**Sent:** Wednesday, March 11, 2015 1:31 PM  
**To:** Shepherd Neil D  
**Cc:** Welsh Donna J  
**Subject:** RE: Notice 2014-21 Virtual Currencies

Will do.

---

**From:** Shepherd Neil D  
**Sent:** Wednesday, March 11, 2015 1:23 PM  
**To:** Aqui Keith A  
**Cc:** Camillo Lynne A; Shepherd Neil D  
**Subject:** Notice 2014-21 Virtual Currencies

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**Cc:** Welsh Donna J  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

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**Cc:** Montemurro Michael J; Aqui Keith A  
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Thanks!

**From:** [Welsh Donna J](#)  
**To:** [Warren Brinton T](#)  
**Cc:** [Aqui Keith A](#)  
**Subject:** NTA Report  
**Date:** Monday, September 09, 2013 5:17:23 PM

---

Keith and I do not have any comments on NTA's writeup on Virtual Currency.



**From:** [Aqui Keith A](#)  
**To:** [Greg Zbylut \(greg@gaztaxlaw.com\)](#)  
**Cc:** [Welsh Donna J](#); [Meola Karla M](#); [Berman Samuel](#); [Griffin Adrienne E](#); [Henkel Melissa A](#); [Stahl Raymond J](#); [Henderson Joseph S](#)  
**Subject:** Participants at Meeting on May 4, 2015  
**Date:** Monday, May 04, 2015 11:07:00 AM

---

Gregory A. Zbylut	Zbylut Law Office	
Karla Meola	CC:ITA	202. 317. 4662
Donna Welsh	CC:ITA:B04	202. 317. 4745
Keith A. Aqui	CC:ITA:B04	202. 317. 4905
Raymond Stahl	CC:LB&I	202. 317. 4917
Joseph Henderson	CC:LB&I	202. 317. 4967
Adrienne Griffin	CC:P&A	202. 317. 5155
Melissa Henkel	CC:P&A	202. 317. 5146
Samuel Berman	CC:SB/SE	240. 613. 6368

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**To:** [Welsh Donna J](#)  
**Cc:** [Fahey Douglas A](#); [Arterton Cameron](#); [Faiza.Khan@treasury.gov](mailto:Faiza.Khan@treasury.gov); [Shepherd Sara P](#); [Ahmed.Bhadelia@treasury.gov](mailto:Ahmed.Bhadelia@treasury.gov); [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Subject:** Pre-Call --Conference call with HSGA about IRS treatment of digital currencies  
**Date:** Friday, February 07, 2014 12:21:32 PM

---

Hello all. We didn't settle who was going to lead the call on Monday. I'd like to suggest that Andy do that.

Andy, given that you weren't on the pre-call, it would be great if we could talk briefly before on Monday (before 10:30) or anytime today (I realize you are out of the office, but thought you might check bb). My number is below.



(b)(5)

Please let me know if anyone has any other questions.

**Rochelle Hodes**  
Office of Tax Policy  
Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, D.C. 20220  
Phone 202.622.1787  
[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**From:** [Baumgarten, Peter J](#)  
**To:** [Fahey, Douglas A](#); [Welsh, Donna J](#)  
**Subject:** Press request about Bitcoin  
**Date:** Tuesday, June 04, 2013 4:20:58 PM

---

I think the answer is that the IRS still has not put out any guidance, not even a Q&A on the irs.gov website.



(b)(5)

Anyway, here is the article referred to above from Forbes. Who should answer Sara?

Forbes, May 2, 2013, Robert W. Wood

Bitcoin is virtual currency much in the news these days. It's peer-to-peer so there's no central bank or government. But if you think that means the IRS won't get a piece, think again.

The IRS already gets a piece where you swap one product or service for another, as the IRS explains at its [Bartering Tax Center](#). Soon the IRS may have a Bitcoin Center too. The Treasury unit called FinCEN, the Financial Crimes Enforcement Network, already has rules about Bitcoin and the IRS is likely to follow.

In the meantime, the tax rules seem pretty clear. If you provide services or sell goods for Bitcoin, you have income. If you exchange Bitcoins for cash, whether you have gain may depend on whether Bitcoin is really currency or commodity. The latter seems more likely, meaning you have gain to the extent of the appreciation in your Bitcoin.

Income is income, whether you get it in cash or in kind. Bitcoin may be accepted as currency and may not be easy to trace but so are trades and barter. When you barter or swap one item for another, both parties have tax consequences. That's so even if one party wants credit for later.

Trade or barter dollars allow you to barter when one party wants goods or services and the other wants credit for the future. Earning trade or barter dollars through a barter exchange is considered taxable income, just as if your product or service was sold for cash. And even trades are still taxed.

Plumbing for dental work? The IRS taxes it. You name the swap, it's income to both sides just like cash. Both must report the fair market value of goods or services received on their tax returns. See [Do You Barter? The IRS Wants Its Cut](#).

Most casual barter exchanges probably aren't on the tax radar. Most Bitcoin transactions aren't either. But even simple trades trigger multiple tax rules. If you receive \$1,000 of dental work for your gardening services, you have \$1,000 of income.

If you swap your wristwatch for a painting, it's two separate taxable transactions. Say you inherited the watch from your uncle when it was worth \$5,000. If it's doubled in value to \$10,000 and the painting is also worth \$10,000, you have \$5,000 of income. ([Section 1031 exchanges](#) of some business and investment property can be tax-free, but that's no help here.)

How will the IRS know about your swap? They probably won't unless you receive a [Form 1099](#). Still, the IRS says you must report any income on your return regardless of whether you receive a Form 1099. See [IRS Form 1099: God Particle Of The Tax System](#).

The FinCEN rules say Bitcoin exchanges and Bitcoin miners should register as Money Services Businesses (MSBs) and comply with anti-money laundering regulations. Ordinary Bitcoin users don't have to register just to purchase goods and services. But will Forms 1099 and other nettlesome signs of civilization soon bite Bitcoin? Yes, and probably soon.

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009 with 2012 Supplement, [Tax Institute](#)), he can be reached at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*

---

**From:** Eguren Sara L [<mailto:Sara.L.Eguren@irs.gov>]  
**Sent:** Tuesday, June 04, 2013 3:00 PM  
**To:** Welsh Donna J; Fahey Douglas A; Baumgarten Peter J  
**Cc:** Burke Anthony  
**Subject:** FW: Press request about Bitcoin

Has the IRS issued any guidance on Bitcoins?

**Sara L. Eguren**  
IRS Media Relations

---

**From:** Tom Risen  
**Sent:** Tuesday, June 04, 2013 2:45 PM  
**To:** Eguren Sara L  
**Subject:** Press request about Bitcoin

Dear Ms. Eguren,  
Thank you for speaking on the phone and offering to follow up on email. My name is Tom Risen and I am a business journalist writing an article for [Tech Cocktail](#). Could you please arrange a brief phone interview about what small tech companies should know if they want to use Bitcoin? I have read the government guidance on Bitcoin and I would like to ask some clarifying questions. Are Bitcoins taxable? Are there any other plans in the near future for new guidance or regulation on Bitcoin use? The Canadian government has announced that Bitcoins are taxable.  
Thank you in advance for your time and I look forward to hearing from you.

Best,  
Tom Risen  
[Tech Cocktail](#)

**From:** [Welsh Donna J](#)  
**To:** [Steward Andre J](#)  
**Cc:** [Pflanz Shareen S](#); [Welsh Donna J](#)  
**Subject:** RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12  
**Date:** Wednesday, January 02, 2013 11:41:10 AM

---

Please assign to Pflanz/Welsh

UIL:61.00

Issue: What is the tax treatment of virtual currency.

Note: Phone conference call 1/14/13 at 12pm.

---

**From:** Pflanz Shareen S  
**Sent:** Monday, December 31, 2012 11:29 AM  
**To:** Steward Andre J  
**Cc:** Welsh Donna J  
**Subject:** FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Not sure if you need to know this.

---

**From:** Banks Kelly D **On Behalf Of** TSS4510  
**Sent:** Monday, December 31, 2012 10:43 AM  
**To:** Thomas Lowell D; TSS4510  
**Cc:** Moriarty John P; Welsh Donna J; Pflanz Shareen S; Goldstein Richard S; Han Seung H  
**Subject:** RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

I have opened a WLI for CC:ITA.

**This assignment has been uploaded to the ITA Share Point website.**

Kelly Banks  
Management Analyst  
Procedure and Administration  
Technical Support Services Branch/TSS4510

-----Original Message-----

From: Thomas Lowell D  
Sent: Monday, December 31, 2012 8:56 AM  
To: TSS4510  
Cc: Moriarty John P; Welsh Donna J; Pflanz Shareen S; Goldstein Richard S; Han Seung H  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Please open a WLI for CC:ITA, the case number is GAO-154334-12. Thanks.

-----Original Message-----

From: Goldstein Richard S

Sent: Monday, December 31, 2012 8:03 AM  
To: Moriarty John P; Welsh Donna J; Pflanz Shareen S  
Cc: Thomas Lowell D  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Thanks, John. We'll have a WLI opened for ITA on this shortly.

Shareen and Donna,

Please let me know what your schedule is like for the next few weeks so that I can work on scheduling the meeting with GAO.

Richard

-----Original Message-----

From: Moriarty John P  
Sent: Monday, December 31, 2012 7:57 AM  
To: Goldstein Richard S  
Cc: Welsh Donna J; Pflanz Shareen S  
Subject: RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Richard,

Please open a WLI for ITA on this. It will be headed to Shareen and Donna in ITA:Br4.

Thanks.

John

-----Original Message-----

From: Henderson Lashonda C On Behalf Of TSS4510  
Sent: Wednesday, December 26, 2012 3:30 PM  
To: Thomas Lowell D  
Cc: Wilson Brenda D (NO); Keyso Jr. Andrew J; Moriarty John P; Goldstein Richard S; Han Seung H  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Per your request I have created the WLI, the case number is GAO-154334-12.

LaShonda C. Henderson  
Management Analyst  
IRS Chief Counsel  
Procedure and Administration (rm 5336)  
CC:PA:LPD:TSS  
(202) 622-9799 (Desk)  
Please send requests for N.O. Assignments to TSS4510.

-----Original Message-----

From: Thomas Lowell D  
Sent: Wednesday, December 26, 2012 1:58 PM  
To: TSS4510

Cc: Wilson Brenda D (NO); Keyso Jr. Andrew J; Moriarty John P; Goldstein Richard S; Han Seung H  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)

Please open a TECHMIS case under the GAO category with Lowell Thomas as initiator, Richard Goldstein as reviewer, and with a WLI for P&A. No file is needed. Please send us the case number as soon as you have it. Thanks.

---

From: Goldstein Richard S  
Sent: Wednesday, December 26, 2012 12:57 PM  
To: Wilson Brenda D (NO); Keyso Jr. Andrew J; Moriarty John P  
Cc: Thomas Lowell D  
Subject: GAO Audit # 451007 - Electronic commerce (code 451007)

Good afternoon,

I hope you had a terrific holiday!

GAO is conducting a review of virtual currencies and economies. As part of that review, they are interested in meeting with individuals in the Office of Chief Counsel to better understand the tax requirements imposed on those who participated in these economies. While P&A has the expertise with regard to any collection issues that may arise, as well as possible reporting requirements, IT&A should be represented as well for the section 61 and ordinary v. capital gain issues. Is there a branch (or individual) who I should contact to discuss when they may be available in the new year to meet with GAO. Thanks,

Richard

Please note: We will have a CASE-MIS number opened and WLI assigned to IT&A.

---

From: Jones, Ronald W [<mailto:JonesRW@gao.gov>]  
Sent: Thursday, December 13, 2012 9:45 AM  
To: Rutstein Joel S  
Cc: Novak, Danielle N; Streagle, Sabrina C; Arkin, Jeffrey L  
Subject: FW: request for contact, GAO review of electronic commerce (code 451007)

Joel, related to the below request and attachments (which I have followed up with Donna on), would you please provide a contact in Chief Counsel to set up a meeting to discuss the tax requirements related to virtual currencies and virtual economies? Thanks again, Ron

**From:** [Baumgarten Peter J](#)  
**To:** [Welsh Donna J](#)  
**Subject:** RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12  
**Date:** Thursday, March 28, 2013 4:13:41 PM

---

Donna, I nearly forgot to send this to you. The website mentioned with the latest conversion rates from bitcoin to dollars is [bitcoincharts.com](http://bitcoincharts.com).

-----Original Message-----

From: Welsh Donna J  
Sent: Thursday, March 28, 2013 3:39 PM  
To: Harvin Betty A  
Cc: Montemurro Michael J; Baumgarten Peter J  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Hi Betty, We have a WLI on the above case. Please assign to Branch 4 with Baumgarten/Welsh. Thanks.

-----Original Message-----

From: TSS4510  
Sent: Thursday, March 28, 2013 3:21 PM  
To: Welsh Donna J  
Subject: RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

You're welcome.

Kelly Banks  
Management Analyst  
CC:PA:LPD:TSS / Procedure and Administration Technical Support Services Branch / TSS4510  
(202) 622-0392 (Office)  
Please send requests for National Office Assignments to TSS4510.  
Thank you!

-----Original Message-----

From: Welsh Donna J  
Sent: Thursday, March 28, 2013 3:20 PM  
To: TSS4510; Thomas Lowell D  
Cc: Tan Carol B; Blanchard William E; Camillo Lynne A; Hall Charles A  
Subject: RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Thanks!

-----Original Message-----

From: TSS4510  
Sent: Thursday, March 28, 2013 2:26 PM  
To: Thomas Lowell D  
Cc: Tan Carol B; Blanchard William E; Camillo Lynne A; Hall Charles A; Welsh Donna J; TSS4510  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

I have opened WLIs for CC:INTL, CC:FIP, CC:TEGE, and CC:ITA.

Kelly Banks



Management Analyst  
CC:PA:LPD:TSS / Procedure and Administration Technical Support Services Branch / TSS4510  
(202) 622-0392 (Office)  
Please send requests for National Office Assignments to TSS4510.  
Thank you!

-----Original Message-----

From: Thomas Lowell D  
Sent: Thursday, March 28, 2013 10:15 AM  
To: TSS4510  
Cc: Goldstein Richard S  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Please open WLIs on this case for CC:INTL, CC:FIP, CC:TEGE, and one for CC:ITA. The case number is GAO-154334-12. Thanks.

-----Original Message-----

From: Goldstein Richard S  
Sent: Wednesday, March 27, 2013 3:52 PM  
To: Thomas Lowell D  
Cc: Tan Carol B; Blanchard William E; Camillo Lynne A; Hall Charles A; Welsh Donna J  
Subject: RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Please have the requested WLIs opened. Thanks.

-----Original Message-----

From: Welsh Donna J  
Sent: Wednesday, March 27, 2013 3:49 PM  
To: Goldstein Richard S; Hall Charles A  
Cc: Tan Carol B; Blanchard William E; Camillo Lynne A  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Hi Richard and Chuck, Will you please open WLIs on this case for CC:INTL, CC:FIP, CC:TEGE, and one for CC:ITA. I closed ours.

Thanks!

**From:** [TSS4510](#)  
**To:** [Welsh Donna J](#); [TSS4510](#)  
**Subject:** RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12  
**Date:** Thursday, March 28, 2013 3:28:53 PM

---

This type of assignment was not uploaded to Share point. We have been working closely with Deborah Clark on ITA Share Point items and, at this time, only litigation and forms assignments are being uploaded. If this changes, please keep us advised.

Kelly Banks  
Management Analyst  
CC:PA:LPD:TSS / Procedure and Administration  
Technical Support Services Branch / TSS4510  
(202) 622-0392 (Office)  
Please send requests for National Office Assignments to TSS4510.  
Thank you!

-----Original Message-----

From: Welsh Donna J  
Sent: Thursday, March 28, 2013 3:22 PM  
To: TSS4510  
Subject: RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Does the assignment go to the Division's sharepoint folder? Thanks!

-----Original Message-----

From: TSS4510  
Sent: Thursday, March 28, 2013 3:21 PM  
To: Welsh Donna J  
Subject: RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

You're welcome.

Kelly Banks  
Management Analyst  
CC:PA:LPD:TSS / Procedure and Administration Technical Support Services Branch / TSS4510  
(202) 622-0392 (Office)  
Please send requests for National Office Assignments to TSS4510.  
Thank you!

-----Original Message-----

From: Welsh Donna J  
Sent: Thursday, March 28, 2013 3:20 PM  
To: TSS4510; Thomas Lowell D  
Cc: Tan Carol B; Blanchard William E; Camillo Lynne A; Hall Charles A  
Subject: RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Thanks!

-----Original Message-----

From: TSS4510  
Sent: Thursday, March 28, 2013 2:26 PM  
To: Thomas Lowell D

Cc: Tan Carol B; Blanchard William E; Camillo Lynne A; Hall Charles A; Welsh Donna J; TSS4510  
Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

I have opened WLIs for CC:INTL, CC:FIP, CC:TEGE, and CC:ITA.

Kelly Banks

Management Analyst

CC:PA:LPD:TSS / Procedure and Administration Technical Support Services Branch / TSS4510

(202) 622-0392 (Office)

Please send requests for National Office Assignments to TSS4510.

Thank you!

-----Original Message-----

From: Thomas Lowell D

Sent: Thursday, March 28, 2013 10:15 AM

To: TSS4510

Cc: Goldstein Richard S

Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Please open WLIs on this case for CC:INTL, CC:FIP, CC:TEGE, and one for CC:ITA. The case number is GAO-154334-12. Thanks.

-----Original Message-----

From: Goldstein Richard S

Sent: Wednesday, March 27, 2013 3:52 PM

To: Thomas Lowell D

Cc: Tan Carol B; Blanchard William E; Camillo Lynne A; Hall Charles A; Welsh Donna J

Subject: RE: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Please have the requested WLIs opened. Thanks.

-----Original Message-----

From: Welsh Donna J

Sent: Wednesday, March 27, 2013 3:49 PM

To: Goldstein Richard S; Hall Charles A

Cc: Tan Carol B; Blanchard William E; Camillo Lynne A

Subject: FW: GAO Audit # 451007 - Electronic commerce (code 451007)-GAO-154334-12

Hi Richard and Chuck, Will you please open WLIs on this case for CC:INTL, CC:FIP, CC:TEGE, and one for CC:ITA. I closed ours.

Thanks!

**From:** [Moriarty John P](#)  
**To:** [Moriarty John P](#)  
**Subject:** RE:  
**Date:** Tuesday, April 01, 2014 5:34:00 PM

---

Anne Wallwork, Jamal El-hindi and Scott Rembrandt.

-----Original Message-----

From: Moriarty John P  
Sent: Tuesday, April 01, 2014 8:56 AM  
To: Moriarty John P  
Subject:

Dan Rountree  
FinCEN  
[Daniel.rountree@fincen.gov](mailto:Daniel.rountree@fincen.gov)

**From:** [Aqui Keith A](#)  
**To:** [Griffin Adrienne E](#)  
**Subject:** RE: (due Thur Feb 12) - 1099-MISC boxes for foreign tax paid  
**Date:** Wednesday, February 25, 2015 4:42:00 PM

---

No, I haven't contacted anyone else in LB&I. Please do. Thanks.

---

**From:** Griffin Adrienne E  
**Sent:** Wednesday, February 25, 2015 4:36 PM  
**To:** Aqui Keith A; Stahl Raymond J  
**Cc:** Welsh Donna J  
**Subject:** RE: (due Thur Feb 12) - 1099-MISC boxes for foreign tax paid

Hi Keith –

This issue was also raised to P&A earlier this year by a taxpayer who called in with a question about royalties reported on the MISC. To help that taxpayer, we coordinated with International as well as the W&I Tax Law Specialist who owns the form. [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

[REDACTED]

I think the specific questions being raised here about foreign tax withholding are more within International's purview, but I'm happy to help out as necessary.

(b)(5)

It also looks like Raymond is out until 3/16 – did you contact the people listed in his out of office? If not, I can do that.

Thanks,  
Adrienne

**Adrienne Griffin**

CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
**202-317-5155**

---

**From:** Aqui Keith A  
**Sent:** Wednesday, February 25, 2015 11:04 AM  
**To:** Griffin Adrienne E; Stahl Raymond J  
**Cc:** Welsh Donna J  
**Subject:** FW: (due Thur Feb 12) - 1099-MISC boxes for foreign tax paid

I believe these issues are within P&A and LB&I.

PS. I have just returned to the office.

---

**From:** Haynes Joseph [<mailto:Joseph.Haynes@irs.gov>]  
**Sent:** Monday, February 09, 2015 5:33 PM  
**To:** Aqui Keith A

**From:** [Moriarty John P](#)  
**To:** [Moriarty John P](#)  
**Subject:** RE:  
**Date:** Tuesday, April 01, 2014 5:32:51 PM

---

-----Original Message-----

From: Moriarty John P  
Sent: Tuesday, April 01, 2014 8:56 AM  
To: Moriarty John P  
Subject:

Dan Rountree  
FinCEN  
[Daniel.rountree@fincen.gov](mailto:Daniel.rountree@fincen.gov)

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** RE:  
**Date:** Wednesday, April 02, 2014 12:38:41 PM

---

I would treat this as a media inquiry. Forward it to Dean Patterson and Bruce Friedland in Media Relations and ask them to handle it.

Doug Fahey  
202.317.4619

-----Original Message-----

From: Aqui Keith A  
Sent: Wednesday, April 02, 2014 11:34 AM  
To: Fahey Douglas A; Welsh Donna J  
Subject:

How do we handle requests for appearances, live and by telephone?

**From:** [Warren Brinton T](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: 30 day response to NTA's MSP--Virtual Currency  
**Date:** Monday, September 23, 2013 2:23:00 PM

---

[Redacted]

(b)(5)

I am happy to meet if that will help, thanks

---

**From:** Welsh Donna J  
**Sent:** Monday, September 23, 2013 12:30 PM  
**To:** Warren Brinton T  
**Cc:** Fahey Douglas A; Aqui Keith A  
**Subject:** RE: 30 day response to NTA's MSP--Virtual Currency

Hi Brinton, Keith and I think that

[Redacted]

(b)(5)

[Redacted]

(b)(5)

[Redacted]

Let us know if you wish to discuss. Thanks.

(b)(5)

---

**From:** Warren Brinton T  
**Sent:** Monday, September 23, 2013 11:08 AM  
**To:** Welsh Donna J  
**Cc:** Fahey Douglas A; Aqui Keith A  
**Subject:** RE: 30 day response to NTA's MSP--Virtual Currency

Hi Donna, I did make some edits to conform to their instructions on how to respond. I think

[Redacted]

(b)(5)

[Redacted]

Let me know what you think, thanks

(b)(5)

---

**From:** Welsh Donna J  
**Sent:** Friday, September 20, 2013 12:13 PM  
**To:** Warren Brinton T  
**Cc:** Fahey Douglas A; Aqui Keith A; Welsh Donna J  
**Subject:** 30 day response to NTA's MSP--Virtual Currency

Hi Brinton, Here is the Branch's 30 day response to NTA's MSP. This is the first time we have prepared such a response, so let us know if we need more info or if style is not correct. Thanks.



**From:** Warren Brinton T  
**To:** Welsh Donna J  
**Cc:** Warren Brinton T  
**Subject:** RE: 30 day response to NTA's MSP--Virtual Currency  
**Date:** Monday, September 23, 2013 10:14:00 AM

---

Hi Donna, [REDACTED]

(b)(5)

(b)(5)

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**From:** Welsh Donna J  
**Sent:** Monday, September 23, 2013 10:05 AM  
**To:** Warren Brinton T  
**Subject:** RE: 30 day response to NTA's MSP--Virtual Currency

I don't think we should discuss content of FAQs other than they will provide general tax info. We don't know what the FAQs may end up looking like. [REDACTED] thx.

(b)(5)

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**From:** Warren Brinton T  
**Sent:** Monday, September 23, 2013 8:24 AM  
**To:** Welsh Donna J  
**Cc:** Fahey Douglas A; AQUI Keith A  
**Subject:** RE: 30 day response to NTA's MSP--Virtual Currency

Hi, I am looking at this now and will be back in touch asap. Quick question— [REDACTED]

(b)(5)

[REDACTED] Thanks

(b)(5)

---

**From:** Welsh Donna J  
**Sent:** Friday, September 20, 2013 12:13 PM  
**To:** Warren Brinton T  
**Cc:** Fahey Douglas A; AQUI Keith A; Welsh Donna J  
**Subject:** 30 day response to NTA's MSP--Virtual Currency

Hi Brinton, Here is the Branch's 30 day response to NTA's MSP. This is the first time we have prepared such a response, so let us know if we need more info or if style is not correct. Thanks.

**From:** [Perwien Mark S](#)  
**To:** [Ronk Alice L](#); [Welsh Donna J](#); [Stahl Raymond J](#); [Aqui Keith A](#)  
**Subject:** RE: Aussie guidance on Bitcoin  
**Date:** Thursday, August 21, 2014 9:16:10 AM

---

Forgot to inset link ; <https://www.ato.gov.au/General/Gen/Tax-treatment-of-crypto-currencies-in-Australia---specifically-bitcoin/>.

Mark S. Perwien  
Senior Advisor Financial Products  
(O) (212) 298-2050  
(C) (201) 851-2422  
290 Broadway, 12th Floor  
New York, NY 10007

---

**From:** Perwien Mark S  
**Sent:** Thursday, August 21, 2014 9:14 AM  
**To:** Ronk Alice L; Welsh Donna J; Stahl Raymond J; Aqui Keith A  
**Subject:** Aussie guidance on Bitcoin

In case you didn't see this. Ray please forward to whomever in ACCI is covering this while you are on detail. Note that the Aussie's have a much more useful *de minimis* rule on personal items than we do.

Mark S. Perwien  
Senior Advisor Financial Products  
(O) (212) 298-2050  
(C) (201) 851-2422  
290 Broadway, 12th Floor  
New York, NY 10007

**From:** [Berman Samuel](#)  
**To:** [Gillen Duane M](#); [Ronk Alice L](#)  
**Cc:** [Garant Charlene M](#); [Welsh Donna J](#)  
**Subject:** RE: Bit Coin  
**Date:** Monday, November 18, 2013 4:36:10 PM

---

Duane and Alice,

There is a link to the Senate's web page that has PDF files containing the prepared testimony for the hearing that was mentioned in the article.

<http://www.hsgac.senate.gov/hearings/beyond-silk-road-potential-risks-threats-and-promises-of-virtual-currencies>

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Berman Samuel  
**Sent:** Monday, November 18, 2013 4:29 PM  
**To:** [Gillen Duane M](#); [Ronk Alice L](#)  
**Cc:** [Garant Charlene M](#); [Welsh Donna J](#)  
**Subject:** RE: Bit Coin

Duane and Alice,

This is a Bloomberg News article about a Congressional Hearing that was held today on the risks and benefits of "virtual currencies."

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** [Gillen Duane M \[mailto:Duane.Gillen@irs.gov\]](mailto:Duane.Gillen@irs.gov)  
**Sent:** Monday, November 18, 2013 2:54 PM  
**To:** [Ronk Alice L](#); [Berman Samuel](#)  
**Cc:** [Garant Charlene M](#)  
**Subject:** Bit Coin

I heard there was a news item on today's news that there is a meeting with Bit Coin and the "Govt" today. Keep your eyes on the newspaper. thanks

*Duane Gillen*

Phone 240-613-5488

Cell Phone 202-641-8548

SB/SE Director Abusive Transactions and Technical Issues

**From:** [Ronk Alice L](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Berman Samuel](#); [Fahey Douglas A](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** RE: Bitcoin Article  
**Date:** Thursday, January 16, 2014 4:20:10 PM  
**Attachments:** [image003.png](#)  
[image004.png](#)

---

Okay. Thanks Donna.

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irs.counsel.treas.gov>]  
**Sent:** Thursday, January 16, 2014 4:19 PM  
**To:** Ronk Alice L  
**Cc:** Berman Samuel; Ronk Alice L; Fahey Douglas A; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Bitcoin Article

Hi Alice, We are not where we can add any more questions now. They are moving forward at Treasury at very high levels and adding anything now would slow down the process. Also, these are the basic questions so there is nothing that can be issued in lieu of these Q&As. Rochelle made it very clear that Treasury is getting a lot of pressure to get the guidance out too. So, we'll need to wait to see what they send back to the working group.

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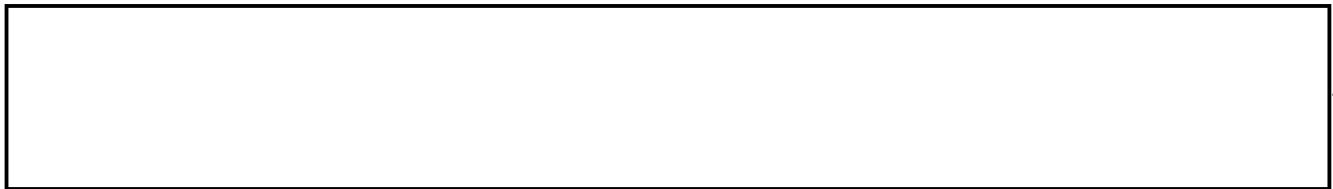
**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Thursday, January 16, 2014 12:31 PM  
**To:** Welsh Donna J  
**Cc:** Berman Samuel; Ronk Alice L  
**Subject:** FW: Bitcoin Article

Should we include this as a Bitcoin FAQ? If not with the current Bitcoin FAQs being reviewed but adding it as soon as possible after?

---

**From:** Berman Samuel [<mailto:Samuel.Berman@irs.counsel.treas.gov>]  
**Sent:** Thursday, January 16, 2014 11:12 AM  
**To:** Gillen Duane M  
**Cc:** Ronk Alice L; Welsh Donna J  
**Subject:** Bitcoin Article

Duane,



(b)(5)

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Gillen Duane M [<mailto:Duane.Gillen@irs.gov>]  
**Sent:** Thursday, January 16, 2014 10:39 AM  
**To:** Berman Samuel  
**Cc:** Ronk Alice L  
**Subject:** RE: SB/SE Morning News Break for January 16, 2014

(b)(5)

*Duane Gillen*  
Phone 240-613-5488  
Cell Phone 202-641-8548  
SB/SE Director Abusive Transactions and Technical Issues

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**From:** Berman Samuel [<mailto:Samuel.Berman@irscounsel.treas.gov>]  
**Sent:** Thursday, January 16, 2014 9:40 AM  
**To:** Gillen Duane M  
**Subject:** RE: SB/SE Morning News Break for January 16, 2014

Duane,

Thanks. If there is a delay between the time SnapCard receives payment from a customer in bitcoins and the time that SnapCard makes the payment in cash, I think they may be able to take advantage of the price fluctuations in bitcoins.

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

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**From:** Gillen Duane M [<mailto:Duane.Gillen@irs.gov>]  
**Sent:** Thursday, January 16, 2014 9:02 AM  
**To:** Ward Beth S; Walker Carmen C; Thurber David R; Taylor James E; Garant Charlene M; Reicks Pamela J; Ronk Alice L; Berman Samuel  
**Subject:** FW: SB/SE Morning News Break for January 16, 2014

FYI Alice note the BitCoin article.

*Duane Gillen*  
Phone 240-613-5488  
Cell Phone 202-641-8548

**From:** \*SB/SE Communications  
**Sent:** Thursday, January 16, 2014 8:55 AM  
**To:** &SBSE Executives  
**Subject:** SB/SE Morning News Break for January 16, 2014

Morning News Break is designed to provide a brief summary of the day's  
top news stories of interest to SB/SE executives

**Thursday, January 16, 2014**

**In Today's Edition:**

1. [ADP Offers Protective Claims Service for FICA Tax Refunds](#)
2. [Pay Your Taxes With Bitcoin: snapCard Launches 'Pay the IRS' Service](#)
3. [Guilty-Pleading Jeweler Warns Others on YouTube](#)

**IRS news releases;** None for Today's Edition

**1. Accounting Today**  
**ADP Offers Protective Claims Service for FICA Tax Refunds**  
***By Michael Cohn***

Payroll giant ADP is offering a new Protective Claims Service for employers to preserve their right to a refund of FICA taxes they remitted for certain types of severance pay, pending a final decision in a case that the Supreme Court heard this week.

The Supreme Court heard the case, known as *United States v. Quality Stores, Inc.*, on Tuesday, but a decision may not be handed down until June. The outcome of the case could determine whether employers are eligible for a refund of the FICA taxes they remitted on certain types of severance pay made in tax year 2010 until the present. Businesses that believe they may be eligible for a refund of 2010 FICA taxes—assuming a ruling by the court determines that they are entitled to one—must file a protective claim with the IRS no later than April 15, 2014, due to the statute of limitations.

ADP's Protective Claims Service, which it is offering in conjunction with an outside tax practitioner, includes filing of a tax year 2010 protective claim on IRS Form 941-X, along with tracking of the claim and the IRS's responses. ADP said it would follow the progress of the ongoing Supreme Court litigation, and third-party tax practitioner assistance will be available with the final refund calculation for all applicable tax years from 2010 to the present. ADP will also provide assistance with doing outreach to qualified employees.

"The *United States vs. Quality Stores* case decision could mean the refund of Social Security and Medicare taxes paid by employers on severance pay, which could potentially

add up to a substantial sum for some businesses,” said ADP vice president of business incentives Kerstin Nemec in a statement. “While the deadline for filing protective claims for a refund on taxes paid on severance pay in 2010 is April 15 of this year, we encourage businesses to file earlier than that to allow for IRS processing times. And for those employers who need assistance in preserving their right to a potential refund, ADP, in conjunction with our third-party tax practitioner, has put tools in place to help them file a protection claim for any refund that may be due.”

Litigation around the issue of FICA taxes on severance pay began in 2001 when Quality Stores, Inc. declared bankruptcy and then filed a claim for a \$1 million refund with the IRS in 2002. The case has now made its way to the U.S. Supreme Court, which began hearing oral arguments on Jan. 14, 2014. The case centers on the question of whether severance pay made as part of an employee’s involuntary separation is subject to FICA taxes. If the court holds that the severance pay is not subject to FICA taxation, employers and employees may be eligible for a refund of taxes they have previously paid.

Due to the IRS statute of limitations, only taxes paid in 2010 and later are still subject to consideration for refunds. Protective claims on 2010 taxes must be received no later than April 15, 2014. Because there may or may not be a Supreme Court decision by that time, employers may want to file a protective claim as soon as possible to preserve their right to a refund should the decision allow.

Some estimates place the overall value of FICA taxes on severance pay that could be refunded to employers at as high as \$1 billion. According to compliance data on the Worker Adjustment and Retraining Notification (WARN) Act published by U.S. Department of Labor, more than 175,000 employees were affected by plant closings and mass layoffs in 2010 alone.

Among the top five states affected were California, New York, Pennsylvania, Florida and Illinois. The industries that felt the greatest impact were health care, transportation, banking and retail.

Employers who believe they may be eligible for a refund of FICA taxes can contact ADP at (855) 472-5556 to learn more about the company’s protective claim filing service. ADP is also holding a webinar on the topic on Tuesday, Jan. 21 at 1 pm ET. More information and a registration form are available online.

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## **2. CoinDesk**

### **Pay Your Taxes With Bitcoin: snapCard Launches ‘Pay the IRS’ Service**

***By Daniel Cawrey***

Bitcoin-based shopping cart snapCard is expanding its offerings by launching a pay-the-IRS service for its customers.

“Tax services are truly relevant right now,” Ioannis Giannaros, one of snapCard’s founders, told CoinDesk. “It’s going to be really cool.”

SnapCard users will be able to pay their taxes in bitcoin, and the company will process a USD transaction through a payment processor.



“Essentially, you fill out a form and you say how much you want to pay. Then, we invoice you.”

### **Tax Payment Processing With BTC**

“There are payment processors that have partnered with the government already. What we’re essentially doing is [functioning as] a layer on top that accepts bitcoin,” said Giannaros.

The cost for the tax payment service is a 1.87% fee for the payment processor and a flat \$10 charge from snapCard.

“We have a government payment processor, like a credit card processor, that we run the transaction through. That’s the nuts and bolts of it.”

The electronic methods of submitting owed taxes have consisted of an echeck or a credit card. Many credit card processors charge between 2-3% to make a tax payment using plastic.

“There’s a lot of attributes to the US dollar that make it monopolistic in the US, and one is paying taxes. You have to pay in dollars,” Giannaros said. “At the end of the day, you still pay in dollars through us. But it kind of alleviates the end-to-end point. It’s using bitcoin to pay your taxes.”

### **SnapCard and Ecommerce**

SnapCard bills itself on its website as ‘the easiest way to buy anything on the Internet using bitcoin’. The company regularly charges a 2% fee (1% during the month of January) when using the shopping cart service to pay for items with bitcoin, and uses a bookmarklet to enable the checkout process.

Once a user gets to the shopping cart stage of an online purchase, he or she clicks on the snapCard bookmarklet, which forwards the data to the company for bitcoin processing. The advantage of this is that, with the exception of Overstock.com, large online retailers still don’t accept bitcoin as a payment method. Until that changes, those who want to buy items with BTC from Amazon or a majority of online retailers need to use a third-party service. SnapCard has even processed the sale of a \$90,000 Mercedes Benz from a car dealership that would not accept BTC.

So far, snapCard has facilitated more than \$300,000 in BTC transactions from an active base of over 2,500 users. In December, Giannaros and his co-founder Michael Dunworth told CoinDesk in an interview that they believed many of their customers were early bitcoin investors looking to spend their increasingly valuable bitcoins to promote the virtual currency.

SnapCard is currently being incubated at Boost VC, a San Mateo, CA-based startup accelerator that frequently financially backs bitcoin-based companies. A few other bitcoin startups along with snapCard will be pitching to investors at Boost’s Winter Class Demo Day on 11 February.

It's free to sign up with snapCard. Customers have the option of linking their account to Coinbase or getting an invoice to pay to a bitcoin address within five minutes of order processing.

[Back to Top](#)

### **3. Jewelers Circular Keystone Online Guilty-Pleading Jeweler Warns Others on YouTube By Rob Bates**

On Jan. 14, Pittsburgh jeweler Alan Kashi pleaded guilty to one count of failing to report large cash transactions to the Internal Revenue Service—and now he's posted YouTube videos warning other jewelers to take heed of his example.

Kashi, owner of Kashi Jewelers, was accused of receiving \$12,500 in cash for a Breitling watch last March and not reporting it, court documents say. Under IRS regulations, any business that receives a cash payment of \$10,000 or more must file a form 8300 detailing that transaction to the IRS.

Jewelers Vigilance Committee president and CEO Cecilia Gardner notes that "cash" is not just considered bills, but bank checks, money orders, and cashier's checks. A personal check, credit card, and debit card are not considered cash, she adds. The full regulations can be accessed [here](#).

Kashi was "unclear to what the requirements were," his attorney Stanton Levenson, told JCK. "But I think a lot of people are unclear."

To make sure other retailers get the message, Kashi has posted a series of YouTube videos detailing his experience.

"[As a jeweler] I was attracting great clients and some not-so-great clients," he says in one of the videos. "Some of the not-so-great clients paid in cash.... I was being used by criminals to dispose of their dirty money. Without any awareness, I was part of a money-laundering process."

"Failing to file 8300 was my biggest mistake," he continues. "Do you think that this can happen to you? Of course it can. I never thought it could happen to me. Be aware. Follow the government's law because you could end up like me."

Levenson says the videos have gotten 90,000 hits.

"One IRS agent told me yesterday that Alan has done a better job informing the public of the requirement than the IRS has done," he says.

Gardner says we should expect more of these prosecutions. "[8300s are] something the government has been and will always be looking at," she says. "It is extremely easy for prosecutors to prove these cases. You get \$10,000 in cash, you have to file an 8300. If you didn't do it, you're guilty. It's a federal law, and there is a \$25,000 fine and potential five years in prison attached. Filing 8300s is not optional."

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**Editor's Note:** For additional news stories affecting SB/SE and the IRS please visit *In the News* on IRWeb.

E-mail comments, questions or suggestions to **\*SB/SE Communications**  
SB/SE Morning News Break is a product of SB/SE Communications

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#); [Stahl Raymond J](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** RE: Bitcoin Call  
**Date:** Wednesday, August 12, 2015 4:25:22 PM

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(b)(5)

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**From:** Aqui Keith A  
**Sent:** Monday, August 10, 2015 12:30 PM  
**To:** Welsh Donna J; Stahl Raymond J  
**Subject:** Bitcoin Call

Harlan Swyers, 202. 287. 5291 (O), 301. 768. 3054 posed some questions concerning our Notice.

For IT&A:

A taxpayer has several Bitcoin e-wallets and makes transfers between them. Do these transfers constitute reportable transactions? Does it make a difference if an e-wallet contains Bitcoin held for investment?

For LB&I

Do FATCA and FBAR apply if Bitcoin are held by an exchange located in a foreign country?

**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#)  
**Subject:** RE: Bitcoin FAQs?  
**Date:** Thursday, September 05, 2013 2:24:00 PM

---

I have not changed my name. Please advise when you are ready. Thanks.

---

**From:** Welsh Donna J  
**Sent:** Thursday, September 05, 2013 1:00 PM  
**To:** Aqui Keith A  
**Subject:** RE: Bitcoin FAQs?

Hi Keoth, I am going to gym now, but lets discuss FAQs sometime after 2 :00 today. Thx.

---

**From:** Fahey Douglas A  
**Sent:** Thursday, September 05, 2013 10:49 AM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** FW: Bitcoin FAQs?

FYI. Have you seen this? I should have forwarded this earlier, sorry.

Doug Fahey  
202.622.7883

---

**From:** Cook Janine  
**Sent:** Thursday, August 29, 2013 5:03 PM  
**To:** Keyso Jr. Andrew J; Fahey Douglas A  
**Cc:** Tackney Stephen B  
**Subject:** RE: Bitcoin FAQs?

Andy

I got your message, thanks. For Stephen's benefit, I'll note that you indicated the goal is to only include those FAQs that we can comfortably answer (i.e., no guidance, joint briefings, etc.) Will reach out to Doug for further discussion.

Doug,

Perhaps you and Stephen and I can find a few minutes to talk next week. I understand that



(b)(5)



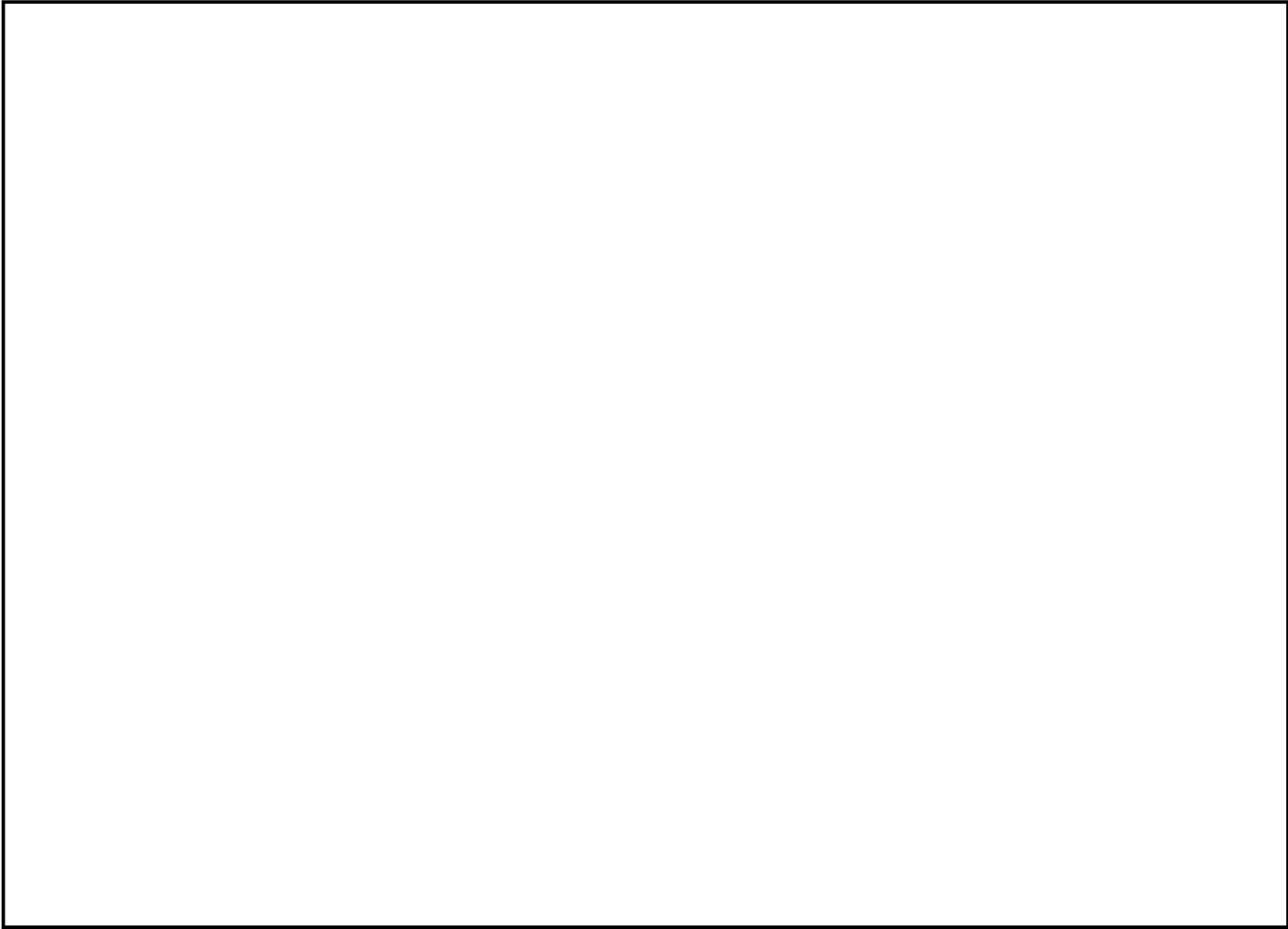
(b)(5)

<< File: Redline Bitcoin Questions employment tax.doc >>

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**From:** Cook Janine  
**Sent:** Wednesday, August 28, 2013 2:56 PM  
**To:** Keyso Jr. Andrew J; Moriarty John P  
**Cc:** Tackney Stephen B  
**Subject:** Bitcoin FAQs?

Andy and John,



(b)(5)

THanks!

Janine

**From:** [Warren Brinton T](#)  
**To:** [Welsh Donna J](#)  
**Subject:** RE: Bitcoin FAQs?  
**Date:** Friday, September 06, 2013 1:49:00 PM

---

Hi—is this ok? Thanks

---

**From:** Cook Janine  
**Sent:** Friday, September 06, 2013 1:34 PM  
**To:** Warren Brinton T; Welsh Donna J  
**Cc:** Tackney Stephen B  
**Subject:** RE: Bitcoin FAQs?

At this point, I'd like to wait until the week of the 17<sup>th</sup> b/c Neil Shepherd will be back and can join us, along with John Richards. Is that fine with you?

---

**From:** Warren Brinton T  
**Sent:** Friday, September 06, 2013 9:37 AM  
**To:** Welsh Donna J; Cook Janine  
**Subject:** RE: Bitcoin FAQs?

Hi. I am standing in for Doug and my schedule is pretty much wide open,

---

**From:** Welsh Donna J  
**Sent:** Thursday, September 05, 2013 5:17 PM  
**To:** Cook Janine  
**Cc:** Tackney Stephen B; Warren Brinton T  
**Subject:** FW: Bitcoin FAQs?

Hi Janine, Doug will be on leave next week, so let me know when you would like to meet next week. I may need to be at home on Tue or Wed, but will be able to participate by phone any day next week. Thanks.

---

**From:** Fahey Douglas A  
**Sent:** Thursday, September 05, 2013 4:44 PM  
**To:** Warren Brinton T  
**Cc:** Welsh Donna J  
**Subject:** FW: Bitcoin FAQs?

FYI

Doug Fahey  
202.622.7883

---

**From:** Cook Janine  
**Sent:** Thursday, September 05, 2013 11:31 AM  
**To:** Fahey Douglas A; Tackney Stephen B  
**Cc:** Keyso Jr. Andrew J  
**Subject:** RE: Bitcoin FAQs?

Doug and Stephen, Do we want to set a time next week to discuss the FAQs and the characterization of bitcoins?

---

**From:** Cook Janine  
**Sent:** Thursday, August 29, 2013 5:03 PM  
**To:** Keyso Jr. Andrew J; Fahey Douglas A  
**Cc:** Tackney Stephen B  
**Subject:** RE: Bitcoin FAQs?

Andy

I got your message, thanks. For Stephen's benefit, I'll note that you indicated the goal is to only include those FAQs that we can comfortably answer (i.e., no guidance, joint briefings, etc.) Will reach out to Doug for further discussion.

Doug,

Perhaps you and Stephen and I can find a few minutes to talk next week. I understand that

[REDACTED]

(b)(5)

[REDACTED]

After we talk, we can provide these (perhaps with revisions) to Donna and the others working on FAQs.

(b)(5)

<< File: Redline Bitcoin Questions employment tax.doc >>

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**From:** Cook Janine  
**Sent:** Wednesday, August 28, 2013 2:56 PM  
**To:** Keyso Jr. Andrew J; Moriarty John P  
**Cc:** Tackney Stephen B  
**Subject:** Bitcoin FAQs?

Andy and John,

[REDACTED]

(b)(5)



THanks!

Janine

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**To:** [Corwin Erik H](#); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)  
**Cc:** [Khoury Mireille](#); [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes-Vasquez Marie C](#); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Zarlenga Lisa \(OTP\)](#); [Stahl Raymond J](#); [Corwin Erik H](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Thursday, March 20, 2014 2:59:58 PM

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We are ok with these changes. Thanks.

Note also that I've started going through the press materials that will accompany the release of the Notice. Once we have our comments on those we will send them along to you. Our press folks inform us that the press information will have to be coordinated with the WH so that will impact timing for the release of the notice.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]  
**Sent:** Thursday, March 20, 2014 11:32 AM  
**To:** McMahon, Emily S.; Mazur, Mark; Hodes, Rochelle  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; Zarlenga, Lisa; Stahl, Raymond J; Corwin, Erik H  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Looks like we're good on this. One nit was observed.

(b)(5)

(b)(5)

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**From:** Corwin Erik H  
**Sent:** Thursday, March 20, 2014 10:42 AM  
**To:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Cc:** [Khoury Mireille](#); [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes-Vasquez Marie C](#); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Zarlenga Lisa \(OTP\)](#); [Corwin Erik H](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Looks OK to me too, but just checking on one point with Andy to make sure all are on board.

---

**From:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov) [<mailto:Emily.McMahon@treasury.gov>]  
**Sent:** Thursday, March 20, 2014 10:41 AM  
**To:** [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Zarlenga Lisa (OTP)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

I am fine with this. I think we just need IRS input. Thanks.

---

**From:** Mazur, Mark  
**Sent:** Thursday, March 20, 2014 10:36 AM  
**To:** Hodes, Rochelle; Corwin, Erik H  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; McMahon, Emily S.; Zarlenga, Lisa  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Rochelle,  
If Emily is OK, then I am OK with this.  
Mark

---

**From:** Hodes, Rochelle  
**Sent:** Thursday, March 20, 2014 8:18 AM  
**To:** Corwin, Erik H  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; Mazur, Mark; McMahon, Emily S.; Zarlenga, Lisa  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Attached please find a clean and compare copy of the notice. The two main changes are from TFI.

The first is

[REDACTED] (b)(5)  
[REDACTED] (b)(5)  
[REDACTED] Please let us know if you wish (b)(5)

to discuss. Thanks.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irs.counsel.treas.gov>]  
**Sent:** Friday, March 14, 2014 03:23 PM  
**To:** Hodes, Rochelle  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; Mazur, Mark; McMahon, Emily S.; Zarlenga, Lisa; Corwin, Erik H; Wilkins, William J  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached is a revised version of the Bitcoin notice marked against the version Rochelle sent Wednesday. I put in a few explanatory comment bubbles to flesh out some of the thinking that has gone on on a couple of the points in our building. Other revisions are as noted to Emily or are technical/style nits.

Glad to discuss at your convenience.

Erik

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, March 12, 2014 4:32 PM  
**To:** Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); Zarlenga Lisa (OTP)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]  
**Sent:** Wednesday, March 12, 2014 12:24 AM  
**To:** McMahon, Emily S.; Zarlenga, Lisa  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Hodes, Rochelle; Walli, Karl; Mazur, Mark  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Sorry - I meant I can do 10:00-10:30

-----  
Sent using BlackBerry

---

**From:** Corwin Erik H  
**Sent:** Wednesday, March 12, 2014 12:22 AM  
**To:** 'Emily.McMahon@treasury.gov' <[Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov)>; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; 'Rochelle.Hodes@treasury.gov' <[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)>; 'Karl.Walli@treasury.gov' <[Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)>; 'Mark.Mazur@treasury.gov' <[Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)>  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

I can do 10:30

-----  
Sent using BlackBerry

---

**From:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov) [<mailto:Emily.McMahon@treasury.gov>]  
**Sent:** Tuesday, March 11, 2014 07:37 PM  
**To:** Corwin Erik H; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) <[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)>; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov) <[Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)>; [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov) <[Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)>  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

I am not sure that Thursday is realistic. We will have some proposed revisions which we can send tomorrow for review, though it probably makes sense to discuss as well. Mostly they relate to the

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Fahey Douglas A](#); [Moriarty John P](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Thursday, March 13, 2014 12:26:29 PM

---

We should show this one to Erik at the 3pm.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Fahey Douglas A  
**Sent:** Thursday, March 13, 2014 12:12 PM  
**To:** Keyso Jr. Andrew J; Moriarty John P; Aqui Keith A; Welsh Donna J  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx

FYI

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Burns Gregory  
**Sent:** Thursday, March 13, 2014 12:09 PM  
**To:** Fahey Douglas A; Stahl Raymond J; Erwin Mark E; Jensen Steven D; Cook Janine; Shepherd Neil D  
**Cc:** Tackney Stephen B; Richards John B  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Doug,

We have the following comments.

1)

2)

(b)(5)

Thank you,  
Greg  
CC:TEGE:EB:EC  
202-317-4545

---

**From:** Fahey Douglas A  
**Sent:** Thursday, March 13, 2014 12:02 PM  
**To:** Stahl Raymond J; Erwin Mark E; Jensen Steven D; Cook Janine; Shepherd Neil D; Burns Gregory  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx

FYI – We are meeting with Erik at 3:00 this afternoon so, if possible, I would appreciate receiving any further comments before then. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, March 12, 2014 4:56 PM  
**To:** Aquil Keith A; Welsh Donna J; Stahl Raymond J; Erwin Mark E; Jensen Steven D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Dubert Alexa T; Blanchard William E; Cook Janine; Shepherd Neil D; Burns Gregory; Ronk Alice L; Berman Samuel  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx

This is the latest draft of the virtual currency notice with Treasury edits. Please let me know at your earliest convenience if you have any comments, suggested revisions etc. Negative replies requested. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, March 12, 2014 4:32 PM  
**To:** Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); Zarlenga Lisa (OTP)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

**From:** [Corwin Erik H](#)  
**To:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Cc:** [Khoury Mireille](#); [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes-Vasquez Marie C](#); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); [Zarlenga Lisa \(OTP\)](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Wednesday, March 12, 2014 6:33:02 PM

---

We are going to meet on the revisions tomorrow afternoon and will get back to you after that.

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]  
**Sent:** Wednesday, March 12, 2014 4:32 PM  
**To:** Corwin Erik H  
**Cc:** [Khoury Mireille](#); [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes-Vasquez Marie C](#); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); [Zarlenga Lisa \(OTP\)](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

---

**From:** Corwin Erik H [mailto:[Erik.H.Corwin@irscounsel.treas.gov](mailto:Erik.H.Corwin@irscounsel.treas.gov) ]  
**Sent:** Wednesday, March 12, 2014 12:24 AM  
**To:** McMahon, Emily S.; Zarlenga, Lisa  
**Cc:** [Khoury Mireille T](#); [Keyso Jr., Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes Vasquez Marie C](#); [Hodes Rochelle](#); [Walli Karl](#); [Mazur Mark](#)  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Sorry - I meant I can do 10:00-10:30

-----  
Sent using BlackBerry

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**From:** Corwin Erik H  
**Sent:** Wednesday, March 12, 2014 12:22 AM  
**To:** 'Emily.McMahon@treasury.gov' <[Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov)>; [Zarlenga Lisa \(OTP\)](#)  
**Cc:** [Khoury Mireille](#); [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes-Vasquez Marie C](#); 'Rochelle.Hodes@treasury.gov' <[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)>; 'Karl.Walli@treasury.gov' <[Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)>; 'Mark.Mazur@treasury.gov' <[Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)>  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

I can do 10:30

-----  
Sent using BlackBerry

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**From:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov) [mailto:[Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov) ]  
**Sent:** Tuesday, March 11, 2014 07:37 PM  
**To:** Corwin Erik H; [Zarlenga Lisa \(OTP\)](#)  
**Cc:** [Khoury Mireille](#); [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes-](#)

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Corwin Erik H](#); [Moriarty John P](#); [Fahey Douglas A](#); [Welsh Donna J](#)  
**Cc:** [Watkins Andrea M](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Wednesday, March 12, 2014 5:09:35 PM

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We have circulated to the other affected offices. Yes, 2pm tomorrow is fine. I'm copying Andrea so that we can get on your calendar.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Corwin Erik H  
**Sent:** Wednesday, March 12, 2014 4:57 PM  
**To:** Keyso Jr. Andrew J; Moriarty John P; Fahey Douglas A  
**Cc:** Corwin Erik H  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx

Wow, a lot of blacklining. Let's review and convene tomorrow. I would circulate also to INTL and TEGE. Could we maybe meet at 2pm tomorrow?

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, March 12, 2014 4:32 PM  
**To:** Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); Zarlenga Lisa (OTP)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irs.counsel.treas.gov>]  
**Sent:** Wednesday, March 12, 2014 12:24 AM  
**To:** McMahon, Emily S.; Zarlenga, Lisa  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Hodes, Rochelle; Walli, Karl; Mazur, Mark  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Sorry - I meant I can do 10:00-10:30

-----  
Sent using BlackBerry

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**From:** Corwin Erik H  
**Sent:** Wednesday, March 12, 2014 12:22 AM  
**To:** 'Emily.McMahon@treasury.gov' <[Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov)>; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; 'Rochelle.Hodes@treasury.gov' <[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)>;



**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Wednesday, March 12, 2014 10:22:57 AM

---

Sorry, i did not make the meeting. Pls tell me what went on. Are we there yet?

---

**From:** Keyso Jr. Andrew J  
**Sent:** Wednesday, March 12, 2014 9:23 AM  
**To:** Fahey Douglas A; Welsh Donna J; Moriarty John P  
**Subject:** FW: Bitcoin Notice 3-7-14 4PM.docx

We're going to Erik's office for this 10am meeting.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Corwin Erik H  
**Sent:** Wednesday, March 12, 2014 9:22 AM  
**To:** Keyso Jr. Andrew J  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Yes, that would be great.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Wednesday, March 12, 2014 9:21 AM  
**To:** Corwin Erik H  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Erik, we'll come down for this if you'd like us to.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov) [<mailto:Emily.McMahon@treasury.gov>]  
**Sent:** Wednesday, March 12, 2014 8:32 AM  
**To:** Corwin Erik H; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Ok, I will call you at 10am.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irs.counsel.treas.gov>]  
**Sent:** Wednesday, March 12, 2014 12:24 AM Eastern Standard Time

**To:** McMahon, Emily S.; Zarlenga, Lisa  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Hodes, Rochelle; Walli, Karl; Mazur, Mark  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Sorry - I meant I can do 10:00-10:30

-----  
Sent using BlackBerry

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**From:** Corwin Erik H  
**Sent:** Wednesday, March 12, 2014 12:22 AM  
**To:** 'Emily.McMahon@treasury.gov' <[Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov)>; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; 'Rochelle.Hodes@treasury.gov' <[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)>; 'Karl.Walli@treasury.gov' <[Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)>; 'Mark.Mazur@treasury.gov' <[Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)>  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

I can do 10:30

-----  
Sent using BlackBerry

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**From:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov) [<mailto:Emily.McMahon@treasury.gov>]  
**Sent:** Tuesday, March 11, 2014 07:37 PM  
**To:** Corwin Erik H; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) <[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)>; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov) <[Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)>; [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov) <[Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)>  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

I am not sure that Thursday is realistic. We will have some proposed revisions which we can send tomorrow for review, though it probably makes sense to discuss as well [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

(b)(5)

[REDACTED] However, we also have issues with a couple of the questions. Could we (or at least some of us) plan to talk at 10:00am tomorrow? We have the ABA coming in at 10:30am but I think 30 mins should be enough.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]  
**Sent:** Tuesday, March 11, 2014 05:56 PM Eastern Standard Time  
**To:** McMahon, Emily S.; Zarlenga, Lisa  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Thought I would check in to see where your thinking is on this. Are we still driving for a Thursday release? I'm wide open tomorrow morning if a discussion would be helpful.

**From:** [Fahey Douglas A](#)  
**To:** [Rochelle.Hodes@treasury.gov](#); [Corwin Erik H](#); [Emily.McMahon@treasury.gov](#); [Mark.Mazur@treasury.gov](#)  
**Cc:** [Khoury Mireille](#); [Keyso Jr. Andrew J](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes-Vasquez Marie C](#); [Karl.Walli@treasury.gov](#); [Zarlenga Lisa \(OTP\)](#); [Stahl Raymond J](#); [Corwin Erik H](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Thursday, March 20, 2014 3:13:11 PM  
**Attachments:** [Notice 2014-21 CLEAN.docx](#)

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Here is a clean copy of the notice, Notice 2014-21. The only remaining edit that is needed is to insert the date of release in Q-16 when we have it.

Erik, I will bring a signature package to you shortly.

---

**From:** [Rochelle.Hodes@treasury.gov](#) [mailto:[Rochelle.Hodes@treasury.gov](#)]  
**Sent:** Thursday, March 20, 2014 3:00 PM  
**To:** [Corwin Erik H](#); [Emily.McMahon@treasury.gov](#); [Mark.Mazur@treasury.gov](#)  
**Cc:** [Khoury Mireille](#); [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes-Vasquez Marie C](#); [Karl.Walli@treasury.gov](#); [Zarlenga Lisa \(OTP\)](#); [Stahl Raymond J](#); [Corwin Erik H](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

We are ok with these changes. Thanks.

Note also that I've started going through the press materials that will accompany the release of the Notice. Once we have our comments on those we will send them along to you. Our press folks inform us that the press information will have to be coordinated with the WH so that will impact timing for the release of the notice.

---

**From:** [Corwin Erik H](#) [mailto:[Erik.H.Corwin@irsounsel.treas.gov](#)]  
**Sent:** Thursday, March 20, 2014 11:32 AM  
**To:** [McMahon, Emily S](#); [Mazur, Mark](#); [Hodes, Rochelle](#)  
**Cc:** [Khoury, Mireille T](#); [Keyso Jr., Andrew J](#); [Fahey, Douglas A](#); [Moriarty, John P](#); [Wilkins, William J](#); [Milnes Vasquez, Marie C](#); [Walli, Karl](#); [Zarlenga, Lisa](#); [Stahl, Raymond J](#); [Corwin, Erik H](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Looks like we're good on this. One nit was observed. Specifically, in the sentence



(b)(5)

(b)(5)

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**From:** Corwin Erik H  
**Sent:** Thursday, March 20, 2014 10:42 AM  
**To:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Zarlenga Lisa (OTP); Corwin Erik H  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Looks OK to me too, but just checking on one point with Andy to make sure all are on board.

---

**From:** [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov) [<mailto:Emily.McMahon@treasury.gov>]  
**Sent:** Thursday, March 20, 2014 10:41 AM  
**To:** [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); Zarlenga Lisa (OTP)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

I am fine with this. I think we just need IRS input. Thanks.

---

**From:** Mazur, Mark  
**Sent:** Thursday, March 20, 2014 10:36 AM  
**To:** Hodes, Rochelle; Corwin, Erik H  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; McMahon, Emily S.; Zarlenga, Lisa  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Rochelle,  
If Emily is OK, then I am OK with this.  
Mark

---

**From:** Hodes, Rochelle  
**Sent:** Thursday, March 20, 2014 8:18 AM  
**To:** Corwin, Erik H  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; Mazur, Mark; McMahon, Emily S.; Zarlenga, Lisa  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Attached please find a clean and compare copy of the notice. The two main changes are from TFI.

(b)(5)

to discuss. Thanks.

Please let us know if you wish

(b)(5)

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]  
**Sent:** Friday, March 14, 2014 03:23 PM  
**To:** Hodes, Rochelle  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; Mazur, Mark; McMahon, Emily S.; Zarlenga, Lisa; Corwin, Erik H; Wilkins, William J  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached is a revised version of the Bitcoin notice marked against the version Rochelle sent Wednesday. I put in a few explanatory comment bubbles to flesh out some of the thinking that has gone on on a couple of the points in our building. Other revisions are as noted to Emily or are technical/style nits.

Glad to discuss at your convenience.

Erik

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, March 12, 2014 4:32 PM  
**To:** Corwin Erik H  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); Zarlenga Lisa (OTP)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]  
**Sent:** Wednesday, March 12, 2014 12:24 AM  
**To:** McMahon, Emily S.; Zarlenga, Lisa  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Hodes, Rochelle; Walli, Karl; Mazur, Mark  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

Sorry - I meant I can do 10:00-10:30

-----  
Sent using BlackBerry

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**From:** Corwin Erik H  
**Sent:** Wednesday, March 12, 2014 12:22 AM  
**To:** 'Emily.McMahon@treasury.gov' <[Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov)>; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P; Wilkins William J; Milnes-Vasquez Marie C; 'Rochelle.Hodes@treasury.gov' <[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)>; 'Karl.Walli@treasury.gov' <[Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)>; 'Mark.Mazur@treasury.gov' <[Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov)>  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

I can do 10:30

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**To:** [Corwin Erik H](#)  
**Cc:** [Khoury Mireille](#); [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes-Vasquez Marie C](#); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); [Zarlenga Lisa \(OTP\)](#)  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx  
**Date:** Thursday, March 20, 2014 8:18:31 AM  
**Attachments:** [Bitcoin Notice COMPARE 3-14-14 and 3-19-14.docx](#)  
[Bitcoin Notice 3-19-14 CLEAN.docx](#)

---

Attached please find a clean and compare copy of the notice. The two main changes are from TFI.

[Redacted]

(b)(5)

[Redacted]

Please let us know if you wish

(b)(5)

to discuss. Thanks.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]  
**Sent:** Friday, March 14, 2014 03:23 PM  
**To:** Hodes, Rochelle  
**Cc:** Khoury, Mireille T; Keyso Jr., Andrew J; Fahey, Douglas A; Moriarty, John P; Wilkins, William J; Milnes Vasquez, Marie C; Walli, Karl; Mazur, Mark; McMahon, Emily S.; Zarlenga, Lisa; Corwin, Erik H; Wilkins, William J  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached is a revised version of the Bitcoin notice marked against the version Rochelle sent Wednesday. I put in a few explanatory comment bubbles to flesh out some of the thinking that has gone on on a couple of the points in our building. Other revisions are as noted to Emily or are technical/style nits.

Glad to discuss at your convenience.

Erik

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, March 12, 2014 4:32 PM  
**To:** Corwin Erik H  
**Cc:** [Khoury Mireille](#); [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#); [Wilkins William J](#); [Milnes-Vasquez Marie C](#); [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov); [Mark.Mazur@treasury.gov](mailto:Mark.Mazur@treasury.gov); [Emily.McMahon@treasury.gov](mailto:Emily.McMahon@treasury.gov); [Zarlenga Lisa \(OTP\)](#)  
**Subject:** RE: Bitcoin Notice 3-7-14 4PM.docx

Attached please find the changes to the Bitcoin notice that Emily referenced this morning. Please let us know if you want to discuss further.

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irscounsel.treas.gov>]  
**Sent:** Wednesday, March 12, 2014 12:24 AM  
**To:** McMahon, Emily S.; Zarlenga, Lisa  
**Cc:** [Khoury, Mireille T](#); [Keyso Jr., Andrew J](#); [Fahey, Douglas A](#); [Moriarty, John P](#); [Wilkins, William J](#); [Milnes Vasquez, Marie C](#); [Hodes, Rochelle](#); [Walli, Karl](#); [Mazur, Mark](#)  
**Subject:** Re: Bitcoin Notice 3-7-14 4PM.docx

**From:** [Fahey Douglas A](#)  
**To:** [Corwin Erik H](#); [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Cc:** [Cook Janine](#)  
**Subject:** RE: Bitcoin Notice 3-13-14 CC 5PM with EHC eds.docx  
**Date:** Friday, March 14, 2014 10:37:44 AM

---

Your changes look fine to me. I'll prepare the draft for OTP.

Doug Fahey

**NEW PHONE 202-317-4619**

---

**From:** Corwin Erik H  
**Sent:** Friday, March 14, 2014 10:28 AM  
**To:** Fahey Douglas A; Keyso Jr. Andrew J; Moriarty John P  
**Cc:** Cook Janine; Corwin Erik H  
**Subject:** Bitcoin Notice 3-13-14 CC 5PM with EHC eds.docx

While waiting to hear back definitively from Mireille [REDACTED] after her (b)(5)  
10:30 meeting), I took another read through and made some other small edits,  
including [REDACTED] (b)(5)

[REDACTED] Let me know your thoughts. I plan to shoot this over to (b)(5)  
OTP as soon as practicable after we hear back from Mireille. For that purpose, it  
would be good to have a draft that is a blackline of our proposed revised version  
against the version they sent us (with all of their changes accepted).

<< File: Bitcoin Notice 3-13-14 CC 5PM with EHC eds.docx >>

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: Bitcoin Notice  
**Date:** Friday, March 28, 2014 12:01:14 PM

---

I agree that it is beyond the notice. And I think we should start printing out the interesting questions that we think need additional guidance so that we will have them in one place for the next round.

---

**From:** Fahey Douglas A  
**Sent:** Friday, March 28, 2014 11:59 AM  
**To:** Aqui Keith A  
**Cc:** Welsh Donna J  
**Subject:** RE: Bitcoin Notice

I think if you get a question that goes beyond the scope of the notice, you should simply indicate that the caller is raising a very interesting question, but it is not a question that you can provide assistance on based on the Q&As in the notice. Indicate that you will make a note of it for consideration in any future guidance, and thank the caller for raising the issue.

**Doug Fahey**  
**202.317.4619**

---

**From:** Aqui Keith A  
**Sent:** Friday, March 28, 2014 11:52 AM  
**To:** Fahey Douglas A  
**Cc:** Welsh Donna J  
**Subject:** Bitcoin Notice

A taxpayer (not reporter) queries about the treatment of a Bitcoin gift in excess of \$5,000 to a nonprofit organization. Is an appraisal required or may the donor use the rules applicable to gifts of stock?

A commenter also posed this question.



**From:** [Moriarty John P](#)  
**To:** [Welsh Donna J](#)  
**Subject:** Re: Bitcoin pre-call tomorrow  
**Date:** Friday, February 07, 2014 8:30:30 AM

---

Can you send me a copy of the draft?

---

**From:** Welsh Donna J  
**Sent:** Thursday, February 06, 2014 04:21 PM  
**To:** Moriarty John P; Keyso Jr. Andrew J  
**Subject:** RE: Bitcoin pre-call tomorrow

Cool.

---

**From:** Moriarty John P  
**Sent:** Thursday, February 06, 2014 4:09 PM  
**To:** Keyso Jr. Andrew J  
**Cc:** Welsh Donna J  
**Subject:** RE: Bitcoin pre-call tomorrow

I'll participate – already sent the acceptance.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, February 06, 2014 4:07 PM  
**To:** Moriarty John P  
**Cc:** Welsh Donna J  
**Subject:** Bitcoin pre-call tomorrow

John, Doug and I are both out tomorrow. Would you join Donna Welsh in attending the pre-call on bitcoin tomorrow. Donna certainly can handle it, but I'd like to have someone else on the line from ITA. Thanks.

Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: bitcoin release draft  
**Date:** Wednesday, February 26, 2014 3:55:15 PM  
**Attachments:** [IR-2014-bitcoin\\_ITA2.doc](#)

---

Here are mine. Keith is on vacation.

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 26, 2014 3:41 PM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** RE: bitcoin release draft

Here are my suggested edits.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 26, 2014 3:25 PM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** FW: bitcoin release draft

Please let me know if you have any revisions etc. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Patterson Dean J [<mailto:Dean.J.Patterson@irs.gov>]  
**Sent:** Wednesday, February 26, 2014 10:50 AM  
**To:** Fahey Douglas A; Keyso Jr. Andrew J  
**Cc:** Eldridge Michelle L; Friedland Bruce I; Smith Eric L; Burke Anthony  
**Subject:** bitcoin release draft

Doug and Andy,

Attached is a draft release for the bitcoin guidance. Please have a look.

Dean J. Patterson  
IRS National Media Relations  
202-3172-4000

**From:** [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)  
**To:** [Fahey Douglas A](#); [Blanchard William E](#); [Michael.Novey@treasury.gov](mailto:Michael.Novey@treasury.gov); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Welsh Donna J](#); [Erwin Mark E](#)  
**Subject:** RE: Bitcoin report in TNT  
**Date:** Tuesday, July 22, 2014 10:53:37 AM

---

(b)(5)

---

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irs.counsel.treas.gov>]  
**Sent:** Tuesday, July 22, 2014 10:47 AM  
**To:** Blanchard, William E; Walli, Karl; Novey, Michael; Guiliano, Vincent J; Milnes Vasquez, Marie C; Brickates, Lewis K; Colson, Faith P; Welsh, Donna J; Erwin, Mark E  
**Subject:** RE: Bitcoin report in TNT

The CRS report does not mention Notice 2014-21 (3/25/14); maybe it was in review for a long time. A comment has been posted to alert readers about the omission.

**Doug Fahey**  
**202.317.4619**

---

**From:** Blanchard William E  
**Sent:** Tuesday, July 22, 2014 6:47 AM  
**To:** &FIPLegal; Walli Karl - OTP; Novey Michael - OTP; Guiliano Vincent J; Milnes-Vasquez Marie C; Brickates Lewis K; Colson Faith P; Welsh Donna J; Fahey Douglas A; Erwin Mark E  
**Subject:** Bitcoin report in TNT

**From:** [Eldridge Michelle L](#)  
**To:** [Corwin Erik H](#); [Lemons Terry L](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Moriarty John P](#)  
**Subject:** RE: Bitcoin Timing  
**Date:** Wednesday, March 12, 2014 10:57:49 AM

---

That is what I'm hearing too—thanks. --Michelle

---

**From:** Corwin Erik H [<mailto:Erik.H.Corwin@irsounsel.treas.gov>]  
**Sent:** Wednesday, March 12, 2014 10:40 AM  
**To:** Lemons Terry L; Eldridge Michelle L  
**Cc:** Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P  
**Subject:** Bitcoin Timing

On the bitcoin notice, seems like we still have a few outstanding points with OTP, so we won't be in a position to release tomorrow and Friday doesn't seem likely either. But soon. We'll keep you posted.

Erik H. Corwin  
Deputy Chief Counsel (Technical)  
Internal Revenue Service  
Phone: 202-317-3300  
[erik.h.corwin@irsounsel.treas.gov](mailto:erik.h.corwin@irsounsel.treas.gov)

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Moriarty John P](#); [Aqui Keith A](#)  
**Subject:** RE: bitcoin  
**Date:** Monday, February 10, 2014 10:16:14 AM

---

Okay, come on down at 11:30 and we'll call in to the conference from my conference phone.

Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

---

**From:** Welsh Donna J  
**Sent:** Monday, February 10, 2014 10:14 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Moriarty John P; Aqui Keith A  
**Subject:** RE: bitcoin

Hi Andy, I am here and Keith will be 2. Thx.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Monday, February 10, 2014 9:41 AM  
**To:** Welsh Donna J  
**Cc:** Moriarty John P  
**Subject:** bitcoin

Donna, we can dial in to this from my office, assuming you're working from the office today. Is Keith Aqui joining for this?

Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: Bitcoin  
**Date:** Thursday, February 20, 2014 1:29:43 PM

---

Ring me then

---

**From:** Fahey Douglas A  
**Sent:** Thursday, February 20, 2014 12:51 PM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** Bitcoin

Andy is free at 2:00. Okay?

Doug Fahey  
**NEW PHONE 202-317-4619**

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#)  
**Subject:** RE: Bitcoin  
**Date:** Thursday, January 09, 2014 1:40:52 PM

---

I can't move around on it either. Must be problems on their end.

Doug Fahey

**NEW PHONE 202-317-4619**

---

**From:** Aqui Keith A  
**Sent:** Thursday, January 09, 2014 11:45 AM  
**To:** Welsh Donna J  
**Cc:** Fahey Douglas A  
**Subject:** Bitcoin

An article appears in Bloomberg Businessweek today. Having problems reading it. You may wish to try.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** RE: Bitcoin  
**Date:** Wednesday, December 18, 2013 12:45:35 PM

---

Might be a good time to buy!

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Aqui Keith A  
**Sent:** Wednesday, December 18, 2013 12:34 PM  
**To:** Welsh Donna J; Fahey Douglas A  
**Subject:** Bitcoin

Today, December 18, 2013, the Guardian.com reports that Bitcoin has lost almost 50% of its value overnight after Chinese authorities took action.



**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#)  
**Subject:** RE: Bitcoin  
**Date:** Wednesday, April 30, 2014 5:20:00 PM

---

Thanks Donna. Will approach him tomorrow.

-----Original Message-----

From: Welsh Donna J  
Sent: Wednesday, April 30, 2014 5:17 PM  
To: Aqui Keith A  
Subject: RE: Bitcoin

Yes. Kareem Carter from CI may be able to help.

From: Aqui Keith A  
Sent: Wednesday, April 30, 2014 4:31 PM  
To: Welsh Donna J; Fahey Douglas A  
Subject: Bitcoin



(b)(5)

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Moriarty John P](#); [Aqui Keith A](#)  
**Subject:** RE: bitcoin  
**Date:** Monday, February 10, 2014 10:16:14 AM

---

Okay, come on down at 11:30 and we'll call in to the conference from my conference phone.

Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

---

**From:** Welsh Donna J  
**Sent:** Monday, February 10, 2014 10:14 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Moriarty John P; Aqui Keith A  
**Subject:** RE: bitcoin

Hi Andy, I am here and Keith will be 2. Thx.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Monday, February 10, 2014 9:41 AM  
**To:** Welsh Donna J  
**Cc:** Moriarty John P  
**Subject:** bitcoin

Donna, we can dial in to this from my office, assuming you're working from the office today. Is Keith Aqui joining for this?

Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

**From:** [Aqui Keith A](#)  
**To:** [Keyso Jr. Andrew J](#)  
**Subject:** RE: Bitcoinpaper v5  
**Date:** Thursday, April 16, 2015 11:47:00 AM

---

OOPS. I missed them. Thanks.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, April 16, 2015 11:44 AM  
**To:** Meola Karla M; Berman Samuel  
**Cc:** Welsh Donna J; Aqui Keith A  
**Subject:** FW: Bitcoinpaper v5

Copying Karla and Sam Berman.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** Aqui Keith A  
**Sent:** Thursday, April 16, 2015 11:13 AM  
**To:** Welsh Donna J; Keyso Jr. Andrew J; Griffin Adrienne E; Stahl Raymond J; Shepherd Neil D; Henkel Melissa A; Dubert Alexa T  
**Subject:** Bitcoinpaper v5

Los Angeles County Bar Association has provided the attached Briefing Paper to be presented at the May 4 meeting.

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** RE: Bitcoins  
**Date:** Monday, July 29, 2013 4:31:38 PM

---

Awesome!!

---

**From:** Aqui Keith A  
**Sent:** Monday, July 29, 2013 4:21 PM  
**To:** Welsh Donna J  
**Subject:** RE: Bitcoins



Thanks.

(b)(6)

---

**From:** Welsh Donna J  
**Sent:** Monday, July 29, 2013 4:07 PM  
**To:** Aqui Keith A  
**Subject:** RE: Bitcoins

Thanks. Have fun during your time off.

---

**From:** Aqui Keith A  
**Sent:** Monday, July 29, 2013 4:02 PM  
**To:** Welsh Donna J  
**Subject:** RE: Bitcoins

Some suggestions.

<< File: BitcoinTransactions(72913).doc >>

---

**From:** Welsh Donna J  
**Sent:** Monday, July 29, 2013 3:34 PM  
**To:** Aqui Keith A  
**Subject:** Bitcoins

<< File: BitcoinTransactions.doc >>

Here's a start. Pls look at this today if possible. I may continue to work on this in your absence if anything else is required.

**From:** [Fahey Douglas A](#)  
**To:** [Moriarty John P](#); [Welsh Donna J](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** RE: Bitcoins  
**Date:** Thursday, February 27, 2014 9:28:33 AM

---

Yes.

Doug Fahey

**NEW PHONE 202-317-4619**

---

**From:** Moriarty John P  
**Sent:** Thursday, February 27, 2014 9:17 AM  
**To:** Welsh Donna J; Fahey Douglas A  
**Cc:** Keyso Jr. Andrew J  
**Subject:** Bitcoins

Erik would like to meet with us at 11:00 to discuss Bitcoins. Are you available at 10:00 to discuss his concerns before the four of us go down?

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: Bitoin Notice (Revised 2/05/14)  
**Date:** Wednesday, February 05, 2014 4:18:02 PM

---

Ok, room 4518

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 05, 2014 4:17 PM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** RE: Bitoin Notice (Revised 2/05/14)

Duh.

<< File: Bitcoin Notice 2-5-14 4PM.docx >>

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Welsh Donna J  
**Sent:** Wednesday, February 05, 2014 4:16 PM  
**To:** Fahey Douglas A  
**Subject:** RE: Bitoin Notice (Revised 2/05/14)

Pls send attachment...thanks.

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 05, 2014 4:12 PM  
**To:** Aqui Keith A  
**Cc:** Welsh Donna J  
**Subject:** RE: Bitoin Notice (Revised 2/05/14)

Here's a revised draft. Can we meet at 4:30 to discuss? I think rm. 4518 is free.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Aqui Keith A  
**Sent:** Wednesday, February 05, 2014 2:06 PM  
**To:** Fahey Douglas A  
**Cc:** Welsh Donna J; Aqui Keith A  
**Subject:** Bitoin Notice (Revised 2/05/14)

Doug, please find attached the suggestions raised at the meeting earlier today. We hope you can look at them today so we may circulate them. Thanks.

<< File: Bitcoin Notice 2-5-14.docx >>

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Aqui Keith A](#); [Meola Karla M](#)  
**Subject:** RE: Calif. Bar  
**Date:** Tuesday, April 14, 2015 12:04:41 PM

---

Thanks.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** Welsh Donna J  
**Sent:** Tuesday, April 14, 2015 11:57 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Aqui Keith A  
**Subject:** RE: Calif. Bar

Hi Andy, Not yet. And Keith contacted them last week asking when we might receive their writeup. We will forward the info to you and all the participants when we receive it.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Tuesday, April 14, 2015 11:36 AM  
**To:** Welsh Donna J  
**Cc:** Meola Karla M  
**Subject:** Calif. Bar

Donna, has the California bar submitted any materials yet on virtual currency for their meeting with you on May 4<sup>th</sup>? Sam Berman wants to attend, so I'm forwarding the invite to him.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

**From:** [Welsh Donna J](#)  
**To:** [Keyso Jr. Andrew J](#)  
**Cc:** [Aqui Keith A](#)  
**Subject:** RE: Calif. Bar  
**Date:** Tuesday, April 14, 2015 11:57:07 AM

---

Hi Andy, Not yet. And Keith contacted them last week asking when we might receive their writeup. We will forward the info to you and all the participants when we receive it.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Tuesday, April 14, 2015 11:36 AM  
**To:** Welsh Donna J  
**Cc:** Meola Karla M  
**Subject:** Calif. Bar

Donna, has the California bar submitted any materials yet on virtual currency for their meeting with you on May 4<sup>th</sup>? Sam Berman wants to attend, so I'm forwarding the invite to him.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625



**From:** [Welsh Donna J](#)  
**To:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Cc:** [Moriarty John P](#)  
**Subject:** RE: can we talk after the 10:30 call, say at 11:15?  
**Date:** Friday, February 07, 2014 10:08:10 AM

---

Sure.

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]  
**Sent:** Friday, February 07, 2014 9:40 AM  
**To:** Welsh Donna J  
**Subject:** can we talk after the 10:30 call, say at 11:15?

**Rochelle Hodes**  
Office of Tax Policy  
Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, D.C. 20220  
Phone 202.622.1787  
[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#); [Keyso Jr. Andrew J](#)  
**Cc:** [Moriarty John P](#)  
**Subject:** RE: Check in on Virtual Currency FAQs  
**Date:** Wednesday, March 05, 2014 3:21:02 PM  
**Attachments:** [Bitcoin Notice 3-5-14.docx](#)

---

---

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irs.counsel.treas.gov>]  
**Sent:** Wednesday, March 05, 2014 11:35 AM  
**To:** Hodes, Rochelle; Welsh, Donna J; Keyso Jr., Andrew J  
**Cc:** Moriarty, John P  
**Subject:** RE: Check in on Virtual Currency FAQs

Actually, 1:30 doesn't work for us. Anytime, after 2:30 and before 4:00.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, March 05, 2014 9:52 AM  
**To:** 'Rochelle.Hodes@treasury.gov'; Welsh Donna J; Keyso Jr. Andrew J  
**Cc:** Moriarty John P  
**Subject:** RE: Check in on Virtual Currency FAQs

Rochelle – How about 1:30 or 3:00?

[REDACTED] (b)(6)

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Tuesday, March 04, 2014 7:37 PM  
**To:** Welsh Donna J; Keyso Jr. Andrew J  
**Cc:** Fahey Douglas A; Moriarty John P  
**Subject:** Re: Check in on Virtual Currency FAQs

Hi. So sorry [REDACTED] (b)(6)  
[REDACTED] (b)(6)  
[REDACTED] I am available from 1pm on and (b)(6)  
would be happy to talk. Please just send an invite for a convenient time.

In anticipation of that conversation:

[REDACTED] (nothing technical, just intro) (b)(5)

[REDACTED] so we don't need to discuss (b)(5)

Regarding [REDACTED] if I recall correctly, part of that was to address TEGE's (b)(5)  
concerns. Are TEGE and FIP ok taking this language out?

Let's discuss the effective date language live.

Thanks.

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irscounsel.treas.gov>]  
**Sent:** Tuesday, March 04, 2014 01:27 PM  
**To:** Keyso Jr., Andrew J; Hodes, Rochelle  
**Cc:** Fahey, Douglas A; Moriarty, John P  
**Subject:** RE: Check in on Virtual Currency FAQs

Please call me at home at [REDACTED] if she surfaces to talk.

(b)(6)

---

**From:** Keyso Jr. Andrew J  
**Sent:** Tuesday, March 04, 2014 11:54 AM  
**To:** [rochelle.hodes@treasury.gov](mailto:rochelle.hodes@treasury.gov)  
**Cc:** Fahey Douglas A; Moriarty John P; Welsh Donna J  
**Subject:** FW: Check in on Virtual Currency FAQs

Rochelle, any thoughts on the below? We can talk today if you're around.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, February 27, 2014 1:39 PM  
**To:** 'Rochelle.Hodes@treasury.gov'; Zarlenga Lisa (OTP)  
**Cc:** Fahey Douglas A; Welsh Donna J; Moriarty John P; Keyso Jr. Andrew J  
**Subject:** RE: Check in on Virtual Currency FAQs

Lisa and Rochelle—

We had a lengthy conversation with Erik about the bitcoin notice. These seem to be the remaining concerns:



(b)(5)

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Thursday, February 27, 2014 11:59 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Zarlenga Lisa (OTP); Fahey Douglas A; Welsh Donna J  
**Subject:** Re: Check in on Virtual Currency FAQs

Yes, that is our view. Please let us know what Erik's thoughts are.

---

**From:** Keyso Jr. Andrew J [<mailto:Andrew.J.KeysoJr@irs.counsel.treas.gov>]  
**Sent:** Thursday, February 27, 2014 10:29 AM  
**To:** Hodes, Rochelle  
**Cc:** Zarlenga, Lisa; Fahey, Douglas A; Welsh, Donna J  
**Subject:** RE: Check in on Virtual Currency FAQs

I hope so. I'm going downstairs with Fahey to talk to Corwin about it at 11am. I assume your building still insists on some effective date language along the lines you and Doug were working out last evening, right? I ask because my sense is that Corwin [REDACTED] but I'll find out more when I discuss with him shortly and I'll follow up with you or Lisa (I understand you're out today).

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting

202-317-4625

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Thursday, February 27, 2014 10:20 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Zarlenga Lisa (OTP); Fahey Douglas A; Welsh Donna J  
**Subject:** Re: Check in on Virtual Currency FAQs

Andy, to get this published early next week, I think that we need the clean doc that you think your building can approve today or tomorrow at the latest. Is that realistic? If not when do you think that we will get that?

---

**From:** Bourassa, Elizabeth (Betsy)  
**Sent:** Wednesday, February 26, 2014 01:53 PM  
**To:** Hodes, Rochelle; Fahey, Douglas A; Eldridge, Michelle L.; Keyso Jr., Andrew J; Welsh, Donna J; Zarlenga, Lisa  
**Cc:** Donar, Erin  
**Subject:** RE: Check in on Virtual Currency FAQs

Thanks all – As you hear more on timing and drafts of the release/FAQs, please keep this group posted.

Public Affairs | U.S. Treasury Department | o. 202-622-6490

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**From:** Hodes, Rochelle  
**Sent:** Wednesday, February 26, 2014 1:47 PM  
**To:** Fahey, Douglas A; Bourassa, Elizabeth (Betsy); Eldridge, Michelle L.; Keyso Jr., Andrew J; Welsh, Donna J; Zarlenga, Lisa  
**Cc:** Donar, Erin  
**Subject:** RE: Check in on Virtual Currency FAQs

I am out Thursday and Friday. That may move the release date slightly to the beginning of next week.

---

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irs.counsel.treas.gov>]  
**Sent:** Wednesday, February 26, 2014 1:44 PM  
**To:** Bourassa, Elizabeth (Betsy); Eldridge, Michelle L.; Keyso Jr., Andrew J; Welsh, Donna J; Hodes, Rochelle; Zarlenga, Lisa  
**Cc:** Donar, Erin  
**Subject:** RE: Check in on Virtual Currency FAQs

We are actively working on a couple issues in the notice but are still hopeful that we can release it by the end of this week. In addition, we are reviewing IRS Media Relations' working draft of a news release to accompany release of the notice.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** [Elizabeth.Bourassa@treasury.gov](mailto:Elizabeth.Bourassa@treasury.gov) [<mailto:Elizabeth.Bourassa@treasury.gov>]  
**Sent:** Wednesday, February 26, 2014 1:38 PM  
**To:** Eldridge Michelle L; Keyso Jr. Andrew J; Welsh Donna J; Fahey Douglas A; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); Zarlenga Lisa (OTP)  
**Cc:** [Erin.Donar@treasury.gov](mailto:Erin.Donar@treasury.gov)  
**Subject:** Check in on Virtual Currency FAQs

All,

We wanted to make sure the both IRS and Treasury policy/press contacts are looped in on the virtual currency FAQs. I realize that IRS is likely tied up with the hearings today, but when you have the chance to do so, can you please update us on timing and any related content?

Attached is the latest draft that Treasury has of the FAQs.

Thanks,  
Betsy

Public Affairs | U.S. Treasury Department | o. 202-622-6490

**From:** [Aqui Keith A](#)  
**To:** [Stahl Raymond J](#)  
**Subject:** RE: Comments on Notice 2014-21  
**Date:** Thursday, September 25, 2014 12:40:00 PM

---

Most welcome!

---

**From:** Stahl Raymond J  
**Sent:** Thursday, September 25, 2014 12:30 PM  
**To:** Aqui Keith A  
**Cc:** Welsh Donna J; Fahey Douglas A  
**Subject:** RE: Comments on Notice 2014-21

Thanks.

---

**From:** Aqui Keith A  
**Sent:** Thursday, September 25, 2014 12:28 PM  
**To:** Stahl Raymond J  
**Cc:** Welsh Donna J; Fahey Douglas A  
**Subject:** FW: Comments on Notice 2014-21

FYI.

---

**From:** Johnson LaTashia M  
**Sent:** Wednesday, September 24, 2014 1:07 PM  
**To:** Aqui Keith A  
**Cc:** Franks Martin  
**Subject:** Comments on Notice 2014-21

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**To:** [Ronk Alice L](#); [Welsh Donna J](#)  
**Cc:** [Fahey Douglas A](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** RE: Counsel's Draft FAQs on Bitcoins  
**Date:** Thursday, November 21, 2013 3:18:52 PM

---

Hi Alice. I will have a better feel for when we will get back to you after Thanksgiving. Please feel free to e-mail me again that week and I'll try to get you an answer.

On a related point, when did IRS commit to GAO to get the FAQs posted?

---

**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Wednesday, November 20, 2013 10:31 AM  
**To:** Hodes, Rochelle; Welsh, Donna J  
**Cc:** Fahey, Douglas A; Aqui, Keith A; Welsh, Donna J; Ronk Alice L  
**Subject:** RE: Counsel's Draft FAQs on Bitcoins

Hi Rochelle,

I hope you're well. I was hoping to give my Director a tentative, rough estimate of when Treasury expects to complete its review of the FAQs. I realize that you all have a lot on your plate and likely many higher priorities. And I understand that any tentative date could change. However, if you can give me an approximate timeframe, I'd appreciate it when you have a chance. And if we don't speak before then, Happy Thanksgiving to you (and Donna, Doug and Keith)!

-Alice

Alice Ronk  
Attorney-Advisor to the Director  
Abusive Transactions and Technical Issues  
SB/SE Examination  
202-262-7901

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Wednesday, November 13, 2013 6:15 PM  
**To:** Welsh Donna J  
**Cc:** Ronk Alice L; Fahey Douglas A; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Counsel's Draft FAQs on Bitcoins

I am going to coordinate here and we will get back to you. Thanks!

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irscounsel.treas.gov>]  
**Sent:** Wednesday, November 13, 2013 4:54 PM  
**To:** Hodes, Rochelle  
**Cc:** Ronk Alice L; Fahey, Douglas A; Aqui, Keith A; Welsh, Donna J  
**Subject:** Counsel's Draft FAQs on Bitcoins

Hi Rochelle, Here is Counsel's draft FAQs on Bitcoins/Virtual Currency transactions. Please let us know if you would like to discuss.



**From:** [Welsh Donna J](#)  
**To:** [Stahl Raymond J](#)  
**Cc:** [Aqui Keith A](#)  
**Subject:** RE: Counsel's Draft FAQs on Bitcoins  
**Date:** Wednesday, February 05, 2014 3:29:36 PM

---

Good thanks.

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, February 05, 2014 3:28 PM  
**To:** Welsh Donna J  
**Subject:** RE: Counsel's Draft FAQs on Bitcoins

Thanks! I think there is an accountant named Ray Stahl who occasionally posts odd anti-IRS statements in blogs, so I try to use Raymond J. Stahl because his middle initial is different. I swear I'm not the one posting those statements. I use much more creative pseudonyms.

---

**From:** Welsh Donna J  
**Sent:** Wednesday, February 05, 2014 2:55 PM  
**To:** Stahl Raymond J  
**Subject:** FW: Counsel's Draft FAQs on Bitcoins

Hi Ray, Here are Treasury's comments. Do you want your name to appear in headlights of the Notice as Ray or Raymond?

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Tuesday, January 28, 2014 9:32 AM  
**To:** Welsh Donna J  
**Cc:** Ronk Alice L; Fahey Douglas A; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Counsel's Draft FAQs on Bitcoins

Hello all. Attached is the Bitcoin guidance (now in the form of a Notice as I discussed with Donna and Doug) with Treasury's comments. These comments include the views of TLC, ITC, and BTC in the Office of the Assistant Secretary Tax Policy, as well as coordinated comments from the Office of the Assistance Secretary for Terrorism and Financial Intelligence, which includes FinCEN. Please let me know if you want to discuss further. For your convenience I included a compare version from the 11/13 draft and a clean version.

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irscounsel.treas.gov>]  
**Sent:** Wednesday, November 13, 2013 4:54 PM  
**To:** Hodes, Rochelle  
**Cc:** Ronk Alice L; Fahey, Douglas A; Aqui, Keith A; Welsh, Donna J  
**Subject:** Counsel's Draft FAQs on Bitcoins

Hi Rochelle, Here is Counsel's draft FAQs on Bitcoins/Virtual Currency transactions. Please let us know if you would like to discuss.

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Baumgarten Peter J](#)  
**Subject:** RE: Development of examples for IRS.gov in response to GAO audit  
**Date:** Tuesday, July 16, 2013 10:14:44 AM

Yes, I think we should alert Sam

(b)(5)

(b)(5)

Doug Fahey  
202.622.7883

---

**From:** Welsh Donna J  
**Sent:** Monday, July 15, 2013 3:56 PM  
**To:** Fahey Douglas A  
**Cc:** Baumgarten Peter J; Welsh Donna J  
**Subject:** FW: Development of examples for IRS.gov in response to GAO audit

Hi Doug, These questions seem a bit too specific and don't know if they can be answered using existing guidance. I suggest that I point this out to Sam, and having said that, he should send it to TSS4510 for opening Prime to ITA and assistance to PA,FIP, and INTL. We could use the questions presented as a starting point for discussions with the other Associate Offices.

Pls let me know if you agree.

thx.

---

**From:** Berman Samuel  
**Sent:** Monday, July 15, 2013 9:44 AM  
**To:** Welsh Donna J  
**Subject:** FW: Development of examples for IRS.gov in response to GAO audit

Donna,

Before I send this to TSS4510, could you let me know if this is something IT&A would be willing to do (answer the questions in the attached document concerning virtual currency transactions using existing guidance)?

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

**From:** Ronk Alice L [mailto:Alice.L.Ronk@irs.gov]  
**Sent:** Monday, July 15, 2013 9:29 AM  
**To:** Berman Samuel; Larsen Eric R  
**Cc:** Ronk Alice L; Powell-Stringer Portia E; Taylor James E  
**Subject:** FW: Development of examples for IRS.gov in response to GAO audit

Hi all,

**Eric:** These look good. Thanks!

**Sam:** Will you answer or route to the appropriate people in Chief Counsel to answer and/or provide additional comments?

Thanks.

-Alice

P.S.I am on leave most of this week but will be checking emails periodically throughout the day.

---

**From:** Larsen Eric R  
**Sent:** Monday, July 15, 2013 9:06 AM  
**To:** Ronk Alice L  
**Cc:** Berman Samuel; Powell-Stringer Portia E; Taylor James E  
**Subject:** Development of examples for IRS.gov in response to GAO audit

Hi Alice,

Attached are the questions/examples that I came up with that I believe cover the issues raised by the GAO and by the Taxpayer Advocate. The questions are framed as questions from taxpayers that cover the areas of guidance from the perspective of taxpayers that accept bitcoins as payment, speculators, a bitcoin mining business, and bitcoin exchanges. Also, for game game currencies from the perspective of the online gamer and the operator of the virtual world.

I used "bitcoins" or "litecoins" in the many of the questions that will be later used as examples. Those specific VCs can be readily changed to another term or to "virtual currency" later on.

I put down suggested answers on several of the questions, but ended up deleting

(b)(5)

(b)(5)

I am in all today and the rest of the week.

Eric

**From:** [Welsh Donna J](#)  
**To:** [Dubert Alexa T](#); [Lew Pamela](#); [Rogers John W III](#)  
**Cc:** [Aqui Keith A](#); [Montemurro Michael J](#); [Crisalli Donna M](#); [Fahey Douglas A](#); [Erwin Mark E](#)  
**Subject:** RE: Do you know anyone who is handling Bitcoin issues?  
**Date:** Wednesday, October 30, 2013 3:31:16 PM

---

Hi Pamela, We have been working on FAQs and Alexa Dubert, John Roberts, and Ned Blanchard have provided FIP assistance. We have also worked with INTL on this.

---

**From:** Montemurro Michael J  
**Sent:** Wednesday, October 30, 2013 3:17 PM  
**To:** Crisalli Donna M  
**Cc:** Welsh Donna J; Aqui Keith A  
**Subject:** RE: Do you know anyone who is handling Bitcoin issues?

Donna — Donna Welsh is heading up a team of people in Counsel working on this issue.

Michael J. Montemurro  
CC:ITA:4 — ' : 202.622.7101  
Rm. 4243-W (enter through Rm. 4241)  
[michael.j.montemurro@irscounsel.treas.gov](mailto:michael.j.montemurro@irscounsel.treas.gov)

---

**From:** Crisalli Donna M  
**Sent:** Wednesday, October 30, 2013 3:14 PM  
**To:** &ITA Branch; &ITA Special Counsel  
**Cc:** Keyso Jr. Andrew J; Moriarty John P  
**Subject:** FW: Do you know anyone who is handling Bitcoin issues?

Is anyone working any issues involving Bitcoins?

**Donna M. Crisalli**

**(202) 622-8122**

---

**From:** Lew Pamela  
**Sent:** Wednesday, October 30, 2013 3:13 PM  
**To:** Crisalli Donna M  
**Subject:** RE: Do you know anyone who is handling Bitcoin issues?

If you don't mind, I'd appreciate it. Thanks.

---

**From:** Crisalli Donna M  
**Sent:** Wednesday, October 30, 2013 3:12 PM  
**To:** Lew Pamela; Erwin Mark E  
**Cc:** Williams Robert B (NO)  
**Subject:** RE: Do you know anyone who is handling Bitcoin issues?

We do not have any Bitcoin published guidance in the works. If you want I can

check whether anyone has any issues in the branches.

**Donna M. Crisalli**

**(202) 622-8122**

---

**From:** Lew Pamela  
**Sent:** Wednesday, October 30, 2013 2:10 PM  
**To:** Crisalli Donna M; Erwin Mark E  
**Cc:** Williams Robert B (NO)  
**Subject:** Do you know anyone who is handling Bitcoin issues?

Donna and Mark –

Bob Williams received a voice mail from a practitioner at Ernst Young asking about a “non-Bitcoin virtual currency.” Because the EY person was referred to us by someone who usually calls FIP with 475 mark to market questions, we suspect the issue may be whether the virtual currency is somehow a security or commodity of some kind. We understand that there might be a project somewhere involving Bitcoin, and the most logical divisions seemed to us to be either IT&A or INTL. We would like to coordinate with the Bitcoin project team to avoid doing anything inconsistent with what is being done in that case. Do you have any idea who we might contact? Thanks.

Pamela Lew

CC:FIP:3

202-622-3997

**From:** [Crisalli Donna M](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Subject:** RE: Do you know anyone who is handling Bitcoin issues?  
**Date:** Wednesday, October 30, 2013 3:18:39 PM

---

OK thanks.

**Donna M. Crisalli**

**(202) 622-8122**

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, October 30, 2013 3:18 PM  
**To:** Crisalli Donna M; &ITA Branch; &ITA Special Counsel  
**Cc:** Keyso Jr. Andrew J; Moriarty John P  
**Subject:** RE: Do you know anyone who is handling Bitcoin issues?

Yes, Donna W., Keith and I are working on FAQs. I'll reply to Pam.

Doug Fahey  
202.622.7883

---

**From:** Crisalli Donna M  
**Sent:** Wednesday, October 30, 2013 3:14 PM  
**To:** &ITA Branch; &ITA Special Counsel  
**Cc:** Keyso Jr. Andrew J; Moriarty John P  
**Subject:** FW: Do you know anyone who is handling Bitcoin issues?

Is anyone working any issues involving Bitcoins?

**Donna M. Crisalli**

**(202) 622-8122**

---

**From:** Lew Pamela  
**Sent:** Wednesday, October 30, 2013 3:13 PM  
**To:** Crisalli Donna M  
**Subject:** RE: Do you know anyone who is handling Bitcoin issues?

If you don't mind, I'd appreciate it. Thanks.

---

**From:** Crisalli Donna M  
**Sent:** Wednesday, October 30, 2013 3:12 PM  
**To:** Lew Pamela; Erwin Mark E  
**Cc:** Williams Robert B (NO)  
**Subject:** RE: Do you know anyone who is handling Bitcoin issues?

We do not have any Bitcoin published guidance in the works. If you want I can check whether anyone has any issues in the branches.

**Donna M. Crisalli**

**(202) 622-8122**

---

**From:** Lew Pamela  
**Sent:** Wednesday, October 30, 2013 2:10 PM  
**To:** Crisalli Donna M; Erwin Mark E  
**Cc:** Williams Robert B (NO)  
**Subject:** Do you know anyone who is handling Bitcoin issues?

Donna and Mark –

Bob Williams received a voice mail from a practitioner at Ernst Young asking about a “non-Bitcoin virtual currency.” Because the EY person was referred to us by someone who usually calls FIP with 475 mark to market questions, we suspect the issue may be whether the virtual currency is somehow a security or commodity of some kind. We understand that there might be a project somewhere involving Bitcoin, and the most logical divisions seemed to us to be either IT&A or INTL. We would like to coordinate with the Bitcoin project team to avoid doing anything inconsistent with what is being done in that case. Do you have any idea who we might contact? Thanks.

Pamela Lew

CC:FIP:3

202-622-3997

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#); [Fahey Douglas A](#)  
**Subject:** RE: Draft 1st cut on Virtual Transactions and Currencies  
**Date:** Thursday, December 19, 2013 2:51:16 PM

---

Thank you both for handling.

---

**From:** Aqui Keith A  
**Sent:** Wednesday, December 18, 2013 2:32 PM  
**To:** Fahey Douglas A; Welsh Donna J  
**Subject:** RE: Draft 1st cut on Virtual Transactions and Currencies

I believe it complies with our policy regarding pending projects.

PS: Donna is out today.

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, December 18, 2013 2:06 PM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** FW: Draft 1st cut on Virtual Transactions and Currencies  
**Importance:** High

Keith and Donna – Here is my suggested reply to Bruce Friedland in Media Relations on a paragraph he drafted to give to a Wall Street Journal reporter. Let me know of any changes, concerns, etc. I need to send this to him this afternoon. Thanks.

[Redacted]

(b)(5)

Let me know if you have any questions.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Friedland Bruce I [<mailto:Bruce.I.Friedland@irs.gov>]  
**Sent:** Tuesday, December 17, 2013 3:49 PM  
**To:** Fahey Douglas A  
**Cc:** Keyso Jr. Andrew J  
**Subject:** Draft 1st cut on Virtual Transactions and Currencies

Doug,

Here's my very tentative 1<sup>st</sup> draft. I have the link I found to virtual economies page too.



Anything we could do to strengthen it would be good...but obviously, I don't want to overcommit.

Bruce



(b)(5)

**From:** [Stahl Raymond J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Cc:** [Erwin Mark E](#); [Jensen Steven D](#)  
**Subject:** RE: Emailing: lakota-nation-strives-for-independence-with-digital-currency-mazacoin.htm  
**Date:** Friday, March 07, 2014 3:36:42 PM

---

Interesting. Thanks for forwarding. I'm sure that after the notice comes out, we'll still get questions about 988 – particularly because the facts will keep changing. [REDACTED]

(b)(5)

(b)(5)

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**From:** Fahey Douglas A  
**Sent:** Friday, March 07, 2014 3:29 PM  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Cc:** [Stahl Raymond J](#); [Erwin Mark E](#); [Jensen Steven D](#)  
**Subject:** Emailing: lakota-nation-strives-for-independence-with-digital-currency-mazacoin.htm

FYI. An interesting 988 issue?

<< File: lakota-nation-strives-for-independence-with-digital-currency-mazacoin.htm >>

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: Emailing: OpenCoin Accounting Methods Final 111013.docx  
**Date:** Wednesday, December 11, 2013 5:14:52 PM

---

Friday at 2?

Keith, if this works for Doug, pls see if Alice is available.

Thx.

-----Original Message-----

From: Fahey Douglas A  
Sent: Wednesday, December 11, 2013 5:04 PM  
To: Welsh Donna J; Aqui Keith A  
Subject: RE: Emailing: OpenCoin Accounting Methods Final 111013.docx

I just got off another call with Mike so I won't be able to do this today. How about Friday afternoon?

Doug Fahey  
NEW PHONE 202-317-4619

-----Original Message-----

From: Welsh Donna J  
Sent: Wednesday, December 11, 2013 4:08 PM  
To: Aqui Keith A  
Cc: Fahey Douglas A  
Subject: FW: Emailing: OpenCoin Accounting Methods Final 111013.docx

Hi Keith, Alice sent a draft over last week with [REDACTED] Are you available to be on a call with Doug and me in a little bit to discuss this with her if Doug is available? (b)(5)

I just got off the phone with Rochelle Hodes at Treasury and the FAQs are moving along quickly and Treasury likes the level of detail. [REDACTED] (b)(5)

If you and Doug can be on a call to Alice today, you may call me in at [REDACTED] Otherwise, we can call her tomorrow or Friday. (b)(6)

Thanks.

-----Original Message-----

From: Fahey Douglas A  
Sent: Wednesday, December 11, 2013 3:36 PM  
To: Welsh Donna J  
Subject: RE: Emailing: OpenCoin Accounting Methods Final 111013.docx

That's great, thanks.

Doug Fahey  
NEW PHONE 202-317-4619

-----Original Message-----

From: Welsh Donna J  
Sent: Wednesday, December 11, 2013 3:35 PM  
To: Fahey Douglas A  
Subject: RE: Emailing: OpenCoin Accounting Methods Final 111013.docx

Hi Doug, It is fine if you do not attend. I'll fill you in later. Rochelle said she would be calling me this pm with a question about the FAQs. I ask her where they are in Treasury and will give you the update.

-----Original Message-----

From: Fahey Douglas A

Sent: Wednesday, December 11, 2013 3:14 PM

To: Welsh Donna J

Subject: FW: Emailing: OpenCoin Accounting Methods Final 111013.docx

Donna -- Would you be okay attending this without me?

(b)(6)

(b)(6)

Based on the write-up, it looks like most of the discussion won't be on ITA matters.

Doug Fahey

NEW PHONE 202-317-4619

(b)(3)/26 USC 6103

(b)(5)

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**To:** [Sinno Suzanne](#); [Ronk Alice L](#); [Larsen Eric R](#); [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Welsh Donna J](#); [Aqui Keith A](#)  
**Cc:** [Moe Debra K](#); [Berman Samuel](#)  
**Subject:** Re: FAQs on Virtual Currencies  
**Date:** Thursday, August 22, 2013 4:52:37 PM

---

Ok

---

**From:** Sinno Suzanne [<mailto:Suzanne.R.Sinno@irs.gov>]  
**Sent:** Thursday, August 22, 2013 04:43 PM  
**To:** Ronk Alice L <[Alice.L.Ronk@irs.gov](mailto:Alice.L.Ronk@irs.gov)>; Larsen Eric R <[eric.larsen@irs.gov](mailto:eric.larsen@irs.gov)>; Keyso Jr., Andrew J; Fahey, Douglas A; Welsh, Donna J; Hodes, Rochelle; Aqui, Keith A  
**Cc:** Moe, Debra K; Berman, Samuel  
**Subject:** RE: FAQs on Virtual Currencies

Ok great. The hill staff can do Tuesday at 11am. I will go ahead and block off that full hour and send out an invite shortly. I don't know that we will need the full hour but we can discuss that on our pre-call.

Why don't we plan for the pre-call on Monday, 10-10:30am?

Thanks,  
Suzie

---

**From:** Ronk Alice L  
**Sent:** Thursday, August 22, 2013 4:24 PM  
**To:** Larsen Eric R; Sinno Suzanne; Keyso Jr. Andrew J; Fahey Douglas A; Welsh Donna J; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Cc:** Moe Debra K; Berman Samuel; Ronk Alice L  
**Subject:** RE: FAQs on Virtual Currencies

I can make any of those times, too.

---

**From:** Larsen Eric R  
**Sent:** Thursday, August 22, 2013 3:55 PM  
**To:** Sinno Suzanne; Ronk Alice L; Keyso Jr. Andrew J; Fahey Douglas A; Welsh Donna J; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Cc:** Moe Debra K; Berman Samuel  
**Subject:** RE: FAQs on Virtual Currencies

I can make any of those times.

Eric

*Eric R. Larsen*, CPA  
Sr. Program Analyst  
SBSE, ATTI, LDC  
Tel. (850) 402-8606  
Mobile (202) 557-0606

---

**From:** Sinno Suzanne  
**Sent:** Thursday, August 22, 2013 12:00 PM  
**To:** Larsen Eric R; Ronk Alice L; Keyso Jr. Andrew J; Fahey Douglas A; Welsh Donna J; Rochelle.Hodes@treasury.gov  
**Cc:** Moe Debra K; Berman Samuel  
**Subject:** RE: FAQs on Virtual Currencies

Based on the availability I have gotten from everyone, it looks like the IRS/Treasury are available:

Monday - 9-11; 12:30-3:30  
Tuesday - 11:00-12:00

I will send this to the hill unless someone has a conflict I missed.

Additionally, I would like to have a brief internal meeting to discuss what we want to share with the hill at this point. Basically I want to make sure we are all on the same page. So I will set something up based on the above availability.

Thanks,  
Suzie

---

**From:** Larsen Eric R  
**Sent:** Thursday, August 22, 2013 9:32 AM  
**To:** Ronk Alice L; Sinno Suzanne; Keyso Jr. Andrew J; Fahey Douglas A  
**Cc:** Moe Debra K; Berman Samuel  
**Subject:** RE: FAQs on Virtual Currencies

The only day I can not attend is 8/28. I will be on leave that day.

Eric

---

**From:** Ronk Alice L  
**Sent:** Thursday, August 22, 2013 9:12 AM  
**To:** Sinno Suzanne; Keyso Jr. Andrew J; Fahey Douglas A  
**Cc:** Moe Debra K; Berman Samuel; Larsen Eric R; Ronk Alice L  
**Subject:** RE: FAQs on Virtual Currencies

Hi Suzie,  
Abusive Transactions would like Eric Larsen, and myself included. We'd also like Sam Berman and any other SB/SE counsel that Debra Moe (copied on this email) believes would be appropriate.

I've not heard from Debra or Eric, but Sam and I are available any day next week except Friday. thanks.  
-Alice

---

**From:** Sinno Suzanne  
**Sent:** Wednesday, August 21, 2013 5:17 PM  
**To:** Keyso Jr. Andrew J; Fahey Douglas A; Ronk Alice L  
**Subject:** FAQs on Virtual Currencies

Treasury Leg Affairs has asked that the IRS meet with the Senate HSGAC to brief them on the FAQs we are working on for virtual currencies. I have attached the letter that Treasury got from the Committee but they are still working on their response.

The hill staff is fine with doing a conference call. If you can send me your availability for next week, I would appreciate it. Also, if I have left off anyone who should be included on this call, please let me know or loop them in if you can.

If you have any questions, feel free to call me at 927-6922.

Thanks,  
Suzie

Suzanne R. Sinno, J.D., LL.M. (Tax)  
Legislative Counsel  
Office of Legislative Affairs  
Internal Revenue Service  
202-927-6922  
202-622-5247 (fax)  
[Suzanne.R.Sinno@irs.gov](mailto:Suzanne.R.Sinno@irs.gov)

**From:** [Ronk Alice L](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Welsh Donna J](#); [Fahey Douglas A](#); [Ronk Alice L](#)  
**Subject:** RE: FAQ's  
**Date:** Thursday, December 12, 2013 9:32:46 AM

---

Hi Keith,

I'm available at 2 tomorrow. If we need our technical specialist, Eric Larsen, I haven't heard back from him yet.

-Alice

---

**From:** [Aqui Keith A \[mailto:Keith.A.Aqui@IRSCOUNSEL.TREAS.GOV\]](mailto:Keith.A.Aqui@IRSCOUNSEL.TREAS.GOV)  
**Sent:** Wednesday, December 11, 2013 5:19 PM  
**To:** Ronk Alice L  
**Cc:** Welsh Donna J; Fahey Douglas A  
**Subject:** FAQ's

We would like to hold a teleconference at 2:00 pm on Friday to discuss the draft FAQ's.  
Please advise of your availability.

Thanks.



**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** RE: FAQ's  
**Date:** Thursday, December 12, 2013 8:03:02 AM

---

2:00 is good.

Doug Fahey

**NEW PHONE 202-317-4619**

---

**From:** Aqui Keith A  
**Sent:** Wednesday, December 11, 2013 5:19 PM  
**To:** Ronk Alice L  
**Cc:** Welsh Donna J; Fahey Douglas A  
**Subject:** FAQ's

We would like to hold a teleconference at 2:00 pm on Friday to discuss the draft FAQ's.  
Please advise of your availability.

Thanks.

**From:** [Welsh Donna J](#)  
**To:** ["Jones, Ronald W"](#); [Reese-Jacobs Donna Y](#); [Rutstein Joel S](#)  
**Cc:** ["Arkin, Jeffrey L"](#); ["Novak, Danielle N"](#); ["Hanshaw, Lois"](#); [Welsh Donna J](#)  
**Subject:** RE: follow-up meeting with Counsel, GAO JC 451007 Exit Conference  
**Date:** Tuesday, April 02, 2013 10:44:50 AM

---

In addition to the other Counsel employees that you have, please include Natalie McKinney, Anne Shelburne, William Blanchard, Lynne Camillo, Neil Shepherd, and Peter Baumgarten in scheduling the next conference call.

Thanks.

---

**From:** Jones, Ronald W [<mailto:JonesRW@gao.gov>]  
**Sent:** Thursday, March 28, 2013 7:40 AM  
**To:** Welsh Donna J; Reese-Jacobs Donna Y  
**Cc:** Arkin, Jeffrey L; Novak, Danielle N; Hanshaw, Lois  
**Subject:** RE: follow-up meeting with Counsel, GAO JC 451007 Exit Conference

Thank you Donna for your help on this, Ron

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irscounsel.treas.gov>]  
**Sent:** Wednesday, March 27, 2013 5:16 PM  
**To:** Jones, Ronald W; Reese-Jacobs Donna Y  
**Subject:** RE: follow-up meeting with Counsel, GAO JC 451007 Exit Conference

I have asked 3 other divisions (International, Financial Institution and Products, and Employee Benefits) for staff members to include in the next meeting. I will let you know when I have names that you can use for scheduling purposes.

---

**From:** Jones, Ronald W [<mailto:JonesRW@gao.gov>]  
**Sent:** Wednesday, March 27, 2013 2:45 PM  
**To:** Reese-Jacobs Donna Y; Welsh Donna J  
**Cc:** Rutstein Joel S; Novak, Danielle N; Hanshaw, Lois; Arkin, Jeffrey L  
**Subject:** follow-up meeting with Counsel, GAO JC 451007 Exit Conference  
**Importance:** High

Donna and Donna, please let me know how you would like to proceed on setting up, timing for subject meeting as we would need to get together in the next few days to stay on track with our reporting timeframes.

As I will be available off and on, please e-mail [Danielle](#) and copy me and the other GAO staff ([Jeff](#) and [Lois](#)) to avoid any delay in replies and setting up a mutually convenient time soon. Thanks as always, Ron

Ronald W. Jones,  
Senior Analyst, Tax Issues  
Strategic Issues  
U.S. Government Accountability Office  
2635 Century Parkway, Suite 700  
Atlanta, GA 30345  
e-mail: [jonesrw@gao.gov](mailto:jonesrw@gao.gov)  
voice: (404) 679-1975  
fax: (404) 679-1819  
For information about GAO: [www.gao.gov](http://www.gao.gov)  
Connect with GAO: [Twitter](#) | [Facebook](#)

-----Original Appointment-----

**From:** Reese-Jacobs Donna Y [<mailto:Donna.Y.Reese-Jacobs@irs.gov>]

**Sent:** Friday, March 22, 2013 4:48 PM

**To:** Reese-Jacobs Donna Y; Smith Molly M; Tuzynski Laurie; Canada Wanda; Rutstein Joel S; Koon Jodi L; Dobyns Becki J; Fahey Douglas A; Welsh Donna J; Larsen Eric R; Gillen Duane M; Jones, Ronald W; Warnken Todd A; Landsmann Michael A; Holmes Deborah L; Hall Charles A; \*SBSE GAO-TIGTA GTL

**Cc:** Flack Rosemary; Iverson Peggy A; Cavanaugh Kimberly A; Cottrell Mark E; Griffin Adrienne E; Prasad Girish

**Subject:** GAO JC 451007 Exit Conference

**When:** Wednesday, March 27, 2013 1:00 PM-2:00 PM (GMT-05:00) Eastern Time (US & Canada).

**Where:**

(b)(7)(E)

<< File: ATLANTA-#447789-v6-451007\_EXIT\_CONFERENCE\_AGENDA\_AND\_DISCUSSION\_TOPICS.DOCX >>

**From:** [Corwin Erik H](#)  
**To:** [Stern Christopher B](#); [Wilkins William J](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** Re: Follow-up on Monday's Daily Team Meeting  
**Date:** Friday, January 31, 2014 10:11:25 AM

---

We have a bitcoin notice in process. We got comments back from Treasury early this week and I think it is close. Andy may be able to give a more precise update.

-----  
Sent using BlackBerry

---

**From:** Stern Christopher B  
**Sent:** Friday, January 31, 2014 09:00 AM  
**To:** Wilkins William J  
**Cc:** Stern Christopher B; Corwin Erik H  
**Subject:** RE: Follow-up on Monday's Daily Team Meeting

Yes. I believe they will be expecting some thoughts from us on the Bitcoin issues (at least a plan for how we intend to address the need for guidance in the area).

Dalrymple has assigned Terry Lemons to provide a plan for the TBOR issue.

---

**From:** Wilkins William J  
**Sent:** Friday, January 31, 2014 8:57 AM  
**To:** Stern Christopher B; Corwin Erik H  
**Subject:** FW: Follow-up on Monday's Daily Team Meeting

Should we toss in some language on Bitcoin.

I assume DCSE owns the bill of rights topic.

---

**From:** Vandivier David P [<mailto:David.P.Vandivier@irs.gov>]  
**Sent:** Thursday, January 30, 2014 6:16 PM  
**To:** Fisher David; Wilkins William J; Lemons Terry L; Walters Kathleen E; Grant Dianne; Dalrymple John M; Sherry Margaret Ann; Oursler Leonard T; Duval Catherine; Perez Ruth; Taylor James L  
**Cc:** Philcox Crystal; Sinno Suzanne; Wassenaar Russell D  
**Subject:** Follow-up on Monday's Daily Team Meeting

All – At Monday's Daily Team Meeting, a memo of ideas from National Taxpayer Advocate was passed-out and you were asked to review and give comments – especially focusing on what might be done easily, quickly and at low cost (or preferably, no cost).

If you have written edits – please feed them in to Crystal and me – preferably by COB Friday. If you don't have written edits/comments please come prepared to discuss which items you think could be implemented. We will discuss this at next Monday's (2/3) Daily Team Meeting.

Thanks,  
David

**From:** [Patterson Dean J](#)  
**To:** [Kaercher Michael A](#); [Stahl Raymond J](#); [Welsh Donna J](#); [Erwin Mark E](#)  
**Cc:** [Friedland Bruce I](#); [Smith Eric L](#); [Fahey Douglas A](#); [Keyso Jr. Andrew J](#); [Henderson Joseph S](#); [Cottrell Mark E](#); [Lemons Terry L](#)  
**Subject:** RE: Followup on Bitcoin & FBAR filing  
**Date:** Friday, June 06, 2014 4:30:31 PM

---

Willdo. Thanks very much for the input. [REDACTED]

(b)(5)

Dean  
7-6228

-----Original Message-----

From: Kaercher Michael A [<mailto:Michael.A.Kaercher@irs.counsel.treas.gov>]  
Sent: Friday, June 06, 2014 4:26 PM  
To: Patterson Dean J; Stahl Raymond J; Welsh Donna J; Erwin Mark E  
Cc: Friedland Bruce I; Smith Eric L; Fahey Douglas A; Keyso Jr. Andrew J; Henderson Joseph S; Cottrell Mark E  
Subject: RE: Followup on Bitcoin & FBAR filing

I spoke with Mark Cottrell in P&A. [REDACTED]

(b)(5)

(b)(5)

Michael Kaercher  
IRS Office of Chief Counsel (International), Branch 8  
(202) 317-5006  
[michael.a.kaercher@irs.counsel.treas.gov](mailto:michael.a.kaercher@irs.counsel.treas.gov)

-----Original Message-----

From: Kaercher Michael A  
Sent: Friday, June 06, 2014 2:36 PM  
To: Patterson Dean J; Stahl Raymond J; Welsh Donna J; Erwin Mark E  
Cc: Friedland Bruce I; Smith Eric L; Fahey Douglas A; Keyso Jr. Andrew J; Henderson Joseph S  
Subject: RE: Followup on Bitcoin & FBAR filing

I forwarded the inquiry to P&A since they actually own the FBAR (to the extent that anyone in CC owns the FBAR). We here in Branch 8 of International do own Form 8938, which is admittedly similar to the FBAR.

Michael Kaercher  
IRS Office of Chief Counsel (International), Branch 8  
(202) 317-5006  
[michael.a.kaercher@irs.counsel.treas.gov](mailto:michael.a.kaercher@irs.counsel.treas.gov)

-----Original Message-----

From: Patterson Dean J [<mailto:Dean.J.Patterson@irs.gov>]  
Sent: Friday, June 06, 2014 1:18 PM  
To: Stahl Raymond J; Welsh Donna J; Erwin Mark E  
Cc: Friedland Bruce I; Smith Eric L; Fahey Douglas A; Keyso Jr. Andrew J; Henderson Joseph S; Kaercher Michael A

Subject: RE: Followup on Bitcoin & FBAR filing

I also moved it over to fincen since it may fall under their guidance.

-----Original Message-----

From: Stahl Raymond J [<mailto:Raymond.J.Stahl@irscounsel.treas.gov>]

Sent: Friday, June 06, 2014 1:15 PM

To: Welsh Donna J; Erwin Mark E

Cc: Friedland Bruce I; Smith Eric L; Patterson Dean J; Fahey Douglas A; Keyso Jr. Andrew J; Henderson Joseph S; Kaercher Michael A

Subject: RE: Followup on Bitcoin & FBAR filing

Sure. We've copied Joe Henderson and Michael Kaercher.

-----Original Message-----

From: Welsh Donna J

Sent: Friday, June 06, 2014 1:12 PM

To: Stahl Raymond J; Erwin Mark E

Cc: Friedland Bruce I; Smith Eric L; Patterson Dean J; Fahey Douglas A; Keyso Jr. Andrew J

Subject: RE: Followup on Bitcoin & FBAR filing

Hi Ray and Mark, Since this is an International issue, could you please send it to the appropriate people in Intl to respond if your Branch does not handle it.

Thanks!

-----Original Message-----

From: Patterson Dean J [<mailto:Dean.J.Patterson@irs.gov>]

Sent: Friday, June 06, 2014 1:05 PM

To: Keyso Jr. Andrew J; Fahey Douglas A; Welsh Donna J

Cc: Friedland Bruce I; Smith Eric L

Subject: FW: Followup on Bitcoin & FBAR filing

Please see question below. So would an offshore account holding bitcoin be subject to FBAR requirements?

She also asked what happens when bitcoins are converted into a foreign currency and held in an account offshore?

[REDACTED]

(b)(5)

Please advise.

-----Original Message-----

From: Beyoud, Lydia [<mailto:lbeyoud@bna.com>]

Sent: Friday, June 06, 2014 12:38 PM

To: Patterson Dean J

Subject: Followup on Bitcoin & FBAR filing

Hi Dean,

I was wondering if you'd be able to offer any confirmation about what I'm hearing from practitioners about Rod Lundquist's recent comments on there not being an FBAR filing requirement for Bitcoin.

I don't think the webinar went into that sort of detail, from what I'm told, so I just want to confirm with you.

linkedin <<http://www.linkedin.com/pub/lydia-beyoud/b/b38/b37>> email <<mailto:lbeyoud@bna.com>>  
twitter <<https://twitter.com/ElleBeyoud>>

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Warren Brinton T](#)  
**Cc:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Tuesday, October 22, 2013 9:59:20 AM  
**Attachments:** [NTAMSP30-102213.docx](#)

---

Hi Doug and Brinton,

Here is the 30-day response with PA/INTL's input on the 4<sup>th</sup> issue. Brinton has provided comment/edits to this version based on his prior experience in issuing such responses.

I am not in today, but will be back tomorrow.

I will forward PA's comments to the appropriate IRS contact and tell her that we should have the 30 day response in the next couple days.

Thanks!

---

**From:** Erwin Mark E  
**Sent:** Tuesday, October 22, 2013 9:31 AM  
**To:** Welsh Donna J; Griffin Adrienne E; Jensen Steven D; Shelburne Anne P  
**Cc:** Warren Brinton T; Fahey Douglas A; Aqui Keith A; Hall Charles A; Prasad Girish; Cottrell Mark E  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

INTL agrees with the revised draft.

(b)(5)

(b)(5)

Thanks,  
Mark

---

**From:** Welsh Donna J  
**Sent:** Monday, October 21, 2013 5:36 PM  
**To:** Griffin Adrienne E; Erwin Mark E; Jensen Steven D  
**Cc:** Warren Brinton T; Fahey Douglas A; Aqui Keith A; Hall Charles A; Prasad Girish; Cottrell Mark E  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hi Adrienne, Thank you for your comments on the draft response. I will forward your suggestion to NTA's writeup to the appropriate people.

International, Is the draft response as modified acceptable as a response?



Thanks.

---

**From:** Griffin Adrienne E  
**Sent:** Monday, October 21, 2013 2:53 PM  
**To:** Welsh Donna J; Erwin Mark E; Jensen Steven D; Hall Charles A; Prasad Girish; Cottrell Mark E  
**Cc:** Warren Brinton T; Fahey Douglas A; Aqui Keith A  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Donna,

P&A has comments on both the draft response and on the NTA's draft report language. First, for the response to the NTA request for guidance, we recommend emphasizing the need to coordinate any guidance with FINCEN, which has the prime on the FBAR statute and regulations, which are under Title 31. Our recommended changes are bolded:

[Redacted]

(b)(5)

Second, it was not clear to us whether NTA was soliciting comments on their actual draft language. but we wanted to suggest some changes:

(b)(5)

[Redacted]

(b)(5)

[Redacted]

(b)(5)

If you have any questions, or would like to discuss, please let us know.

Thanks.

**Adrienne Griffin**

CC:PA:Branch 1

Rm. 5141

1111 Constitution Avenue, N.W.

Washington, DC 20224

202-622-6808

---

**From:** Welsh Donna J

**Sent:** Friday, October 18, 2013 1:55 PM

**To:** Erwin Mark E; Jensen Steven D; Hall Charles A; Prasad Girish; Griffin Adrienne E

**Cc:** Warren Brinton T; Fahey Douglas A; Aqui Keith A; Welsh Donna J

**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hi there, I am just following up on how we should respond to NTA's request for guidance on FBAR. Please let us know by 10/24 what to include in the NTAMSP response. It was due 10/5.

Thanks again!

---

**From:** Welsh Donna J

**Sent:** Monday, September 23, 2013 3:11 PM

**To:** Erwin Mark E; Jensen Steven D; Hall Charles A; Prasad Girish; Griffin Adrienne E

**Cc:** Warren Brinton T; Fahey Douglas A; Aqui Keith A; Welsh Donna J

**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hi Intl and PA, The NTA has identified virtual currency transactions as a Most Serious Problem. See NTA's attached writeup. We must provide a response to her suggestion within 30 days (due 9/5). Please find attached our draft response.

Mark and Steve, Please look at NTA's request for guidance on FBAR and our draft response. If you think our response goes too far in making a commitment to future guidance, please feel free to edit our response.

I would appreciate any comment you have by Wed., 10/3.

Thanks!

---

**From:** Fahey Douglas A

**Sent:** Thursday, September 05, 2013 4:44 PM

**To:** Warren Brinton T

**Cc:** Welsh Donna J

**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

FYI

Doug Fahey

202.622.7883

---

**From:** Keyso Jr. Andrew J

**Sent:** Thursday, September 05, 2013 1:56 PM

**To:** Fahey Douglas A; Welsh Donna J  
**Cc:** Elliott Nicole M; Wall Judith M  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Doug, Donna, see below. Please respond directly to Nicole. Thanks.

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]  
**Sent:** Thursday, September 05, 2013 1:49 PM  
**To:** Keyso Jr. Andrew J  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Andrew: Thank you in advance for assisting with this project. Attached you will find the MSP write-up as well as some information on the process.

I am assuming you have some experience with MSP, but it not let me know. The most urgent deadline is the 7 days. Nothing jumped out at me but please let me know if you see any factual errors. The final deadline as noted below is October 7. I would like a draft by October 2. We will loop SB in at that point as well, although obviously if there are questions you should feel free to contact Laurie. Let me know if you have questions. Thanks!

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b)(5)

**From:** Erwin Mark E  
**To:** Welsh Donna J; Jensen Steven D  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Tuesday, September 24, 2013 2:58:46 PM

---

Donna --

We're checking with branch 8 (the FATCA/FBAR branch) on this question. However, I'm sure that it is very safe to say that [REDACTED]

[REDACTED]  
[REDACTED] If there's a clear answer under current rules that we can articulate in the FAQs, we can try to do so. But we'll have to speak to branch 8 about that.

(b)(5)

(b)(5)

(b)(5)

Best,  
Mark

---

**From:** Welsh Donna J  
**Sent:** Monday, September 23, 2013 3:11 PM  
**To:** Erwin Mark E; Jensen Steven D; Hall Charles A; Prasad Girish; Griffin Adrienne E  
**Cc:** Warren Brinton T; Fahey Douglas A; Aquil Keith A; Welsh Donna J  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hi Intl and PA, The NTA has identified virtual currency transactions as a Most Serious Problem. See NTA's attached writeup. We must provide a response to her suggestion within 30 days (due 9/5). Please find attached our draft response.

Mark and Steve, Please look at NTA's request for guidance on FBAR and our draft response. If you think our response goes too far in making a commitment to future guidance, please feel free to edit our response.

I would appreciate any comment you have by Wed., 10/3.

Thanks!

---

**From:** Fahey Douglas A  
**Sent:** Thursday, September 05, 2013 4:44 PM  
**To:** Warren Brinton T  
**Cc:** Welsh Donna J  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

FYI

Doug Fahey  
202.622.7883

---

**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, September 05, 2013 1:56 PM  
**To:** Fahey Douglas A; Welsh Donna J  
**Cc:** Elliott Nicole M; Wall Judith M  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Doug, Donna, see below. Please respond directly to Nicole. Thanks.

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]

**Sent:** Thursday, September 05, 2013 1:49 PM

**To:** Keyso Jr. Andrew J

**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Andrew: Thank you in advance for assisting with this project. Attached you will find the MSP write-up as well as some information on the process.

I am assuming you have some experience with MSP, but it not let me know. The most urgent deadline is the 7 days. Nothing jumped out at me but please let me know if you see any factual errors. The final deadline as noted below is October 7. I would like a draft by October 2. We will loop SB in at that point as well, although obviously if there are questions you should feel free to contact Laurie. Let me know if you have questions. Thanks!

**From:** [Elliott Nicole M](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Wall Judith M](#); [Fahey Douglas A](#); [Warren Brinton T](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Tuesday, September 10, 2013 11:42:59 AM

---

Thank you. I will pass this along. As you work on the response, please do not hesitate to reach out.  
Nicole

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irsounsel.treas.gov>]  
**Sent:** Tuesday, September 10, 2013 11:30 AM  
**To:** Elliott Nicole M  
**Cc:** Wall Judith M; Fahey Douglas A; Warren Brinton T; Aqui Keith A; Welsh Donna J  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hi Nicole, CC:ITA has reviewed the draft writeup and we find no factual inaccuracies in the writeup or anything that can not be disclosed to the public.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, September 05, 2013 1:56 PM  
**To:** Fahey Douglas A; Welsh Donna J  
**Cc:** Elliott Nicole M; Wall Judith M  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Doug, Donna, see below. Please respond directly to Nicole. Thanks.

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]  
**Sent:** Thursday, September 05, 2013 1:49 PM  
**To:** Keyso Jr. Andrew J  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Andrew: Thank you in advance for assisting with this project. Attached you will find the MSP write-up as well as some information on the process.

I am assuming you have some experience with MSP, but it not let me know. The most urgent deadline is the 7 days. Nothing jumped out at me but please let me know if you see any factual errors. The final deadline as noted below is October 7. I would like a draft by October 2. We will loop SB in at that point as well, although obviously if there are questions you should feel free to contact Laurie. Let me know if you have questions. Thanks!

---

**From:** Drexler Kenneth J  
**Sent:** Thursday, September 05, 2013 9:58 AM  
**To:** Elliott Nicole M  
**Cc:** Wall Judith M; Tuzynski Laurie; Burger Michelle L; Scott Betty J; Phillips Lisa R; Hansberry Donna C; Patel Debbie J; Lopresti Eric R; Girinakis Rena C; Roberts Bridget; Peterson Amy; Aeschlimann Shamra D; Beale Ester D  
**Subject:** For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Nicole --

I'm attaching a draft of the NTA's write-up on the tax treatment of digital currency transactions that we

plan to include in the NTA's year-end report to Congress. In accordance with our procedures, we ask that the IRS provide a written response within 30 days that will also be included in the report. Therefore, we would appreciate receiving the IRS response by **Monday, October 7**.

In accordance with the "7-day review" procedure, we ask that staff from the affected BOD/function review the write-up quickly and notify us within 7 days from the date of this email if they believe the write-up contains factual inaccuracies or information that cannot be disclosed to the public, along with an explanation of the rationale. We will consider any such requests for change and try to make a decision and notify you within 7 additional days (*i.e.*, within 14 days from the date of this email).

I am copying the BOD/function contact(s) and the TAS staff member who was principally involved in drafting this section. I'm also attaching a document that provides guidance for BOD/function staff in preparing a response. As always, please call me if you have questions or concerns.

Ken

---

Kenneth J. Drexler, Esq.  
Senior Advisor to the National Taxpayer Advocate  
Internal Revenue Service  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

[Kenneth.J.Drexler@irs.gov](mailto:Kenneth.J.Drexler@irs.gov)

Tel: (202) 927-6372

Fax: (202) 622-7854

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Warren Brinton T](#)  
**Cc:** [Aqui Keith A](#)  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Tuesday, October 22, 2013 6:38:41 PM

---

Hi Doug and Brinton, I will probably be working at home the rest of the week. So just send me an email or call at [REDACTED] to discuss.

(b)(6)

I do not see the need to include PA's changes in our response. Our response is very general about the guidance and there changes are specific concerns about text.

Thanks!  
Donna

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]  
**Sent:** Tuesday, October 22, 2013 1:07 PM  
**To:** Welsh Donna J  
**Cc:** Fahey Douglas A; Warren Brinton T; Wall Judith M; Feldman Janice R; Aqui Keith A; Welsh Donna J  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Thank you. My understanding is that they will take only factual inaccuracies. So rather than forward the following, I would suggest you address in your 30 day response as an assumption or notation.

I have not been given a new deadline, so please just get it to me when you can. I will let you know if I hear anything different.

Nicole M. Elliott  
(202) 927-9588

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irscounsel.treas.gov>]  
**Sent:** Tuesday, October 22, 2013 10:14 AM  
**To:** Elliott Nicole M  
**Cc:** Fahey Douglas A; Warren Brinton T; Wall Judith M; Feldman Janice R; Aqui Keith A; Welsh Donna J  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hi Nicole, In preparing the 30-day response to NTA's identification of Virtual Currency as a MSP, CC:PA offered the following comments below on the draft NTA Report. I am not sure if it is too late to include these comments, but am forwarding them for your consideration.

We were in the process of finalizing Counsel's 30-day response to the NTA report before the shutdown, and now we are getting back on track to have our response to you within the next few days.

Donna

---



**From:** [Wall Judith M](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Feldman Janice R](#)  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency TransKeyso Jr. Andrew J  
<Andrew.J.KeysoJr@irsounsel.treas.gov>actions  
**Date:** Tuesday, November 05, 2013 9:33:10 AM

---

Hi Donna,

After the report is published at the end of the year, the IRS will then have 90 days to respond to each of the MSPs.

Judy Wall  
Special Counsel (National Taxpayer Advocate)  
Office of Chief Counsel  
CC:NTA Suite 3047  
202-622-8131  
202-622-5065 (fax)  
Effective approximately November 20, 2013: 202-317-4128

---

**From:** Welsh Donna J  
**Sent:** Tuesday, November 05, 2013 9:27 AM  
**To:** Elliott Nicole M  
**Cc:** Wall Judith M; Fahey Douglas A; Warren Brinton T; Aqui Keith A; Jensen Steven D; Hall Charles A  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency TransKeyso Jr. Andrew J <Andrew.J.KeysoJr@irsounsel.treas.gov>actions

Hi Nicole, So you do not need anything from us on this now, right?

Thanks!

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]  
**Sent:** Monday, November 04, 2013 4:29 PM  
**To:** Keyso Jr. Andrew J; Fahey Douglas A; Welsh Donna J  
**Cc:** Wall Judith M  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

As you may have heard, NTA has changed its policy on MSP review. We will not need to provide a response to this MSP by 12/31. Please keep all of your work saved, however, as we eventually will have to respond – just not this year.

Thank you very much for your attention to this matter. I apologize for the unforeseen turn of events.

Nicole M. Elliott  
(202) 927-9588

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**From:** Keyso Jr. Andrew J [<mailto:Andrew.J.KeysoJr@irsounsel.treas.gov>]  
**Sent:** Thursday, September 05, 2013 1:56 PM  
**To:** Fahey Douglas A; Welsh Donna J  
**Cc:** Elliott Nicole M; Wall Judith M

**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Doug, Donna, see below. Please respond directly to Nicole. Thanks.

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]

**Sent:** Thursday, September 05, 2013 1:49 PM

**To:** Keyso Jr. Andrew J

**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Andrew: Thank you in advance for assisting with this project. Attached you will find the MSP write-up as well as some information on the process.

I am assuming you have some experience with MSP, but it not let me know. The most urgent deadline is the 7 days. Nothing jumped out at me but please let me know if you see any factual errors. The final deadline as noted below is October 7. I would like a draft by October 2. We will loop SB in at that point as well, although obviously if there are questions you should feel free to contact Laurie. Let me know if you have questions. Thanks!

---

**From:** Drexler Kenneth J

**Sent:** Thursday, September 05, 2013 9:58 AM

**To:** Elliott Nicole M

**Cc:** Wall Judith M; Tuzynski Laurie; Burger Michelle L; Scott Betty J; Phillips Lisa R; Hansberry Donna C; Patel Debbie J; Lopresti Eric R; Girinakis Rena C; Roberts Bridget; Peterson Amy; Aeschlimann Shamra D; Beale Ester D

**Subject:** For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Nicole --

I'm attaching a draft of the NTA's write-up on the tax treatment of digital currency transactions that we plan to include in the NTA's year-end report to Congress. In accordance with our procedures, we ask that the IRS provide a written response within 30 days that will also be included in the report. Therefore, we would appreciate receiving the IRS response by **Monday, October 7**.

In accordance with the "7-day review" procedure, we ask that staff from the affected BOD/function review the write-up quickly and notify us within 7 days from the date of this email if they believe the write-up contains factual inaccuracies or information that cannot be disclosed to the public, along with an explanation of the rationale. We will consider any such requests for change and try to make a decision and notify you within 7 additional days (*i.e.*, within 14 days from the date of this email).

I am copying the BOD/function contact(s) and the TAS staff member who was principally involved in drafting this section. I'm also attaching a document that provides guidance for BOD/function staff in preparing a response. As always, please call me if you have questions or concerns.

Ken

---

Kenneth J. Drexler, Esq.  
Senior Advisor to the National Taxpayer Advocate  
Internal Revenue Service  
1111 Constitution Avenue, N.W.

Washington, D.C. 20224

[Kenneth.J.Drexler@irs.gov](mailto:Kenneth.J.Drexler@irs.gov)

Tel: (202) 927-6372

Fax: (202) 622-7854

**From:** [Warren Brinton T](#)  
**To:** [Fahey Douglas A](#)  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions  
**Date:** Wednesday, October 23, 2013 9:35:00 AM

---

Let me know if you need anything from me, thanks

---

**From:** Welsh Donna J  
**Sent:** Tuesday, October 22, 2013 6:39 PM  
**To:** Fahey Douglas A; Warren Brinton T  
**Cc:** Aqui Keith A  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hi Doug and Brinton, I will probably be working at home the rest of the week. So just send me an email or call at  to discuss.

(b)(6)

I do not see the need to include PA's changes in our response. Our response is very general about the guidance and there changes are specific concerns about text.

Thanks!  
Donna

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]  
**Sent:** Tuesday, October 22, 2013 1:07 PM  
**To:** Welsh Donna J  
**Cc:** Fahey Douglas A; Warren Brinton T; Wall Judith M; Feldman Janice R; Aqui Keith A; Welsh Donna J  
**Subject:** RE: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Thank you. My understanding is that they will take only factual inaccuracies. So rather than forward the following, I would suggest you address in your 30 day response as an assumption or notation.

I have not been given a new deadline, so please just get it to me when you can. I will let you know if I hear anything different.

Nicole M. Elliott  
(202) 927-9588

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irs.counsel.treas.gov>]  
**Sent:** Tuesday, October 22, 2013 10:14 AM  
**To:** Elliott Nicole M  
**Cc:** Fahey Douglas A; Warren Brinton T; Wall Judith M; Feldman Janice R; Aqui Keith A; Welsh Donna J  
**Subject:** FW: For IRS Response: NTA MSP on the Tax Treatment of Digital Currency Transactions

Hi Nicole, In preparing the 30-day response to NTA's identification of Virtual Currency as a MSP, CC:PA offered the following comments below on the draft NTA Report. I am not sure if it is too late to include these comments, but am forwarding them for your consideration.

We were in the process of finalizing Counsel's 30-day response to the NTA report before the shutdown, and now we are getting back on track to have our response to you within the next few

**From:** Welsh Donna J  
**To:** Keyso Jr. Andrew J; Fahey Douglas A; Moriarty John P  
**Subject:** RE: For your review: Draft email to Lisa  
**Date:** Thursday, February 27, 2014 1:55:56 PM

---

Looks good. Pls replace [REDACTED]

(b)(5)

I don't think [REDACTED]  
[REDACTED]

(b)(5)

(b)(5)

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**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, February 27, 2014 1:03 PM  
**To:** Fahey Douglas A; Welsh Donna J; Moriarty John P  
**Subject:** For your review: Draft email to Lisa  
**Importance:** High

Let me know if I missed anything in this draft email, or if you would say anything differently.  
Thanks.

<< Message: RE: Check in on Virtual Currency FAQs >>

Andrew J. Keyso

Associate Chief Counsel

Income Tax & Accounting

202-317-4625

**From:** [Welsh Donna J](#)  
**To:** [Moriarty John P](#)  
**Subject:** RE: FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies  
**Date:** Friday, February 07, 2014 10:10:16 AM

---

I'll come up there. Thx.

---

**From:** Moriarty John P  
**Sent:** Friday, February 07, 2014 9:49 AM  
**To:** Welsh Donna J  
**Subject:** FW: FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies

Your office or mine for the call?

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Friday, February 07, 2014 9:39 AM  
**To:** Moriarty John P  
**Subject:** RE: FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies

Thanks for the reminder!

---

**From:** Moriarty John P [<mailto:John.P.Moriarty@irscounsel.treas.gov>]  
**Sent:** Friday, February 07, 2014 9:23 AM  
**To:** Hodes, Rochelle  
**Subject:** RE: FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies

Rochelle,

Is there a call-in number for this?

John

-----Original Appointment-----

**From:** Moriarty John P  
**Sent:** Thursday, February 06, 2014 4:09 PM  
**To:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Accepted: FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies  
**When:** Friday, February 07, 2014 10:30 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).  
**Where:** TBD

**From:** [Berman Samuel](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Fahey Douglas A](#); [Keyso Jr. Andrew J](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....  
**Date:** Tuesday, January 14, 2014 2:10:32 PM

---

Donna,

SB/SE was hoping to get something out early in the filing season, preferably by the end of this month, when taxpayers will be looking for the information. Would Treasury consider releasing the FAQs sooner, limited to the questions that are not novel, to be followed by more formal guidance?

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Tuesday, January 14, 2014 12:53 PM  
**To:** Welsh Donna J; Berman Samuel  
**Cc:** Fahey Douglas A; Keyso Jr. Andrew J; Aqui Keith A; Welsh Donna J  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Thanks for the update, Donna.

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irs.counsel.treas.gov>]  
**Sent:** Tuesday, January 14, 2014 12:46 PM  
**To:** Ronk Alice L; Berman Samuel  
**Cc:** Fahey Douglas A; Keyso Jr. Andrew J; Aqui Keith A; Welsh Donna J  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Hi Alice and Sam,

Doug and I just spoke to Rochelle Hodes of Treasury, and the FAQs are being looked at by several parts of Treasury at very high levels. [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

[REDACTED]

She said that Treasury has a sense of urgency to get the guidance out as well; she expects that the guidance will be issued late Feb. to early March.

(b)(5)

**From:** [Welsh Donna J](#)  
**To:** [Berman Samuel](#)  
**Cc:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....  
**Date:** Thursday, December 05, 2013 2:24:15 PM

---

Hi Sam, We are waiting on Treasury's comments. So, I am CCing Rochelle Hodes of Treasury.

Once we get Treasury's comments, we will run them by the working group and the Chief Counsel again.

---

**From:** Berman Samuel  
**Sent:** Thursday, December 05, 2013 1:39 PM  
**To:** Welsh Donna J  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Donna,

I spoke to Duane Gillen today and he said he was hoping the virtual currencies FAQs could be posted early in the filing season, preferably before. Is there any chance the review could be completed by the end of the month?

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Welsh Donna J  
**Sent:** Thursday, November 14, 2013 7:15 PM  
**To:** Berman Samuel  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Hi Sam, Yes, We briefed the Deputy Chief Counsel yesterday on the FAQs and I sent the FAQs to OTP (Rochelle Hodes) yesterday for coordination within Treasury.

---

**From:** Berman Samuel  
**Sent:** Thursday, November 14, 2013 4:43 PM  
**To:** Welsh Donna J  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Donna,

Have the draft FAQs on virtual currency transactions been approved by Chief Counsel and



forwarded to OTP?

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Marshall William P [<mailto:William.P.Marshall@irs.gov>]  
**Sent:** Thursday, November 14, 2013 1:03 PM  
**To:** Berman Samuel  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Sam, FYI.

---

**From:** Ronk Alice L  
**Sent:** Thursday, November 14, 2013 12:57 PM  
**To:** Marshall William P  
**Cc:** McCarthy Kevin F; Ronk Alice L  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Hello,

As a courtesy, my Director, Duane Gillen, wanted to share the current draft of the of FAQs that have been prepared on virtual currency transactions. These FAQs were prepared by ATTI in response to the GAO report on e-commerce that recommended that the Service provide additional guidance on transactions involving virtual currency by linking to existing guidance. The FAQs have been reviewed and revised by Chief Counsel. Yesterday, Chief Counsel sent the draft FAQs to Treasury for approval. If you have any comments or concerns, please let me know. (FYI: We in ATTI are currently planning to [REDACTED] (b)(5)

[REDACTED] (b)(5)

-Alice  
Alice Ronk  
Attorney-Adviser to the Director  
Abusive Transactions and Technical Issues  
SB/SE Examination  
202-262-7901

---

**From:** Ronk Alice L  
**Sent:** Thursday, November 14, 2013 10:42 AM  
**To:** Larsen Eric R  
**Cc:** Ronk Alice L  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Hi Eric,

I told Duane that you and I could try to [REDACTED] (b)(5)  
[REDACTED] as Duane suggests below. Hope that's okay with you. (b)(5)

-Alice

**From:** Gillen Duane M  
**Sent:** Thursday, November 14, 2013 10:36 AM  
**To:** Ronk Alice L  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

I think these are very good. Would it be valuable to give an example of two



(b)(5)

(b)(5)

*Duane Gillen*  
Phone 240-613-5488  
Cell Phone 202-641-8548  
SB/SE Director Abusive Transactions and Technical Issues

---

**From:** Ronk Alice L  
**Sent:** Thursday, November 14, 2013 10:27 AM  
**To:** Gillen Duane M  
**Cc:** Ronk Alice L  
**Subject:** FYI Update on status of guidance on virtual currencies....

Hi Duane,  
The attached FAQs were completed by Chief Counsel and sent to Treasury for approval yesterday.  
So, we are a little closer to providing the guidance that both GAO and the National Taxpayer Advocate have requested on virtual currencies.  
-Alice

**From:** [Warren Brinton T](#)  
**To:** [Welsh Donna J](#)  
**Subject:** RE: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Date:** Thursday, September 19, 2013 11:33:00 AM

---

Thanks!

---

**From:** Welsh Donna J  
**Sent:** Thursday, September 19, 2013 11:20 AM  
**To:** Warren Brinton T  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

Hi Brinton, Here is the GAO rpt that started it all...

---

**From:** Welsh Donna J  
**Sent:** Tuesday, September 17, 2013 3:42 PM  
**To:** Aquil Keith A  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

As requested...

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, June 04, 2013 4:04 PM  
**To:** Baumgarten Peter J; Welsh Donna J  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

FYI

Doug Fahey  
202.622.7883

---

**From:** Goldstein Richard S  
**Sent:** Tuesday, June 04, 2013 4:01 PM  
**To:** Fahey Douglas A  
**Subject:** RE: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

Doug,

The IRS just sent me the May 3rd response the IRS provided GAO.

Richard

---

**From:** Goldstein Richard S  
**Sent:** Tuesday, June 04, 2013 3:35 PM

**To:** Fahey Douglas A

**Subject:** RE: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

No, GAO has not issued its final report (GAO-13-516) for Audit #451007. I don't have a copy of any interim response that may have been provided to GAO. (For GAO reports, the final response is sent to Congress no later than 60 days after GAO issues its report).

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**From:** Fahey Douglas A

**Sent:** Tuesday, June 04, 2013 3:22 PM

**To:** Goldstein Richard S

**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

Rich -- Has this report been finalized? Do we know what the IRS response is to any recommendation from GAO? Media Relations is asking for assistance in handling a reporter's inquiry about Bitcoins generally.

Doug Fahey  
202.622.7883

---

**From:** Fahey Douglas A

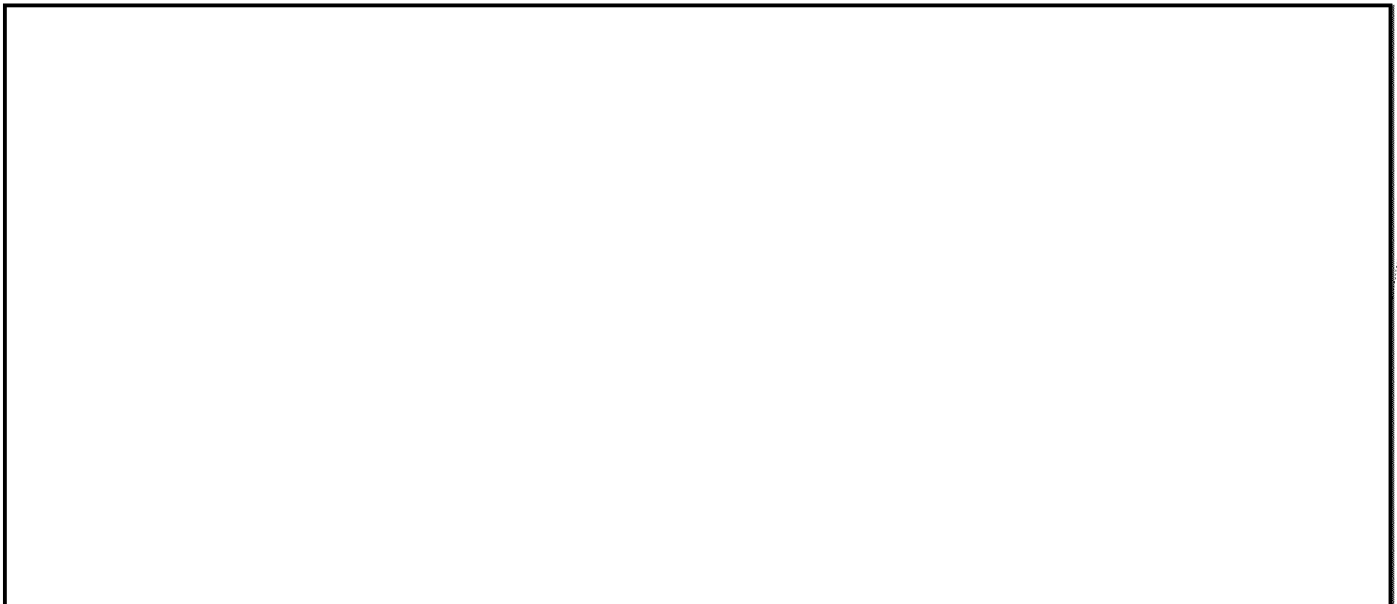
**Sent:** Monday, April 15, 2013 4:51 PM

**To:** Goldstein Richard S; Thomas Lowell D

**Cc:** Welsh Donna J; Baumgarten Peter J

**Subject:** RE: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)

CC:ITA requests a few minor revisions to the report.



(b)(5)

Doug Fahey  
202.622.7883

---

**From:** Welsh Donna J  
**Sent:** Thursday, April 11, 2013 9:54 AM  
**To:** Fahey Douglas A  
**Subject:** FW: GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Importance:** High

fyi

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**From:** Goldstein Richard S  
**Sent:** Thursday, April 11, 2013 6:54 AM  
**To:** Pflanz Shareen S; Welsh Donna J; Shelburne Anne P; Osborne Martin L; Rotunno Norma C; Griffin Adrienne E; Hall Charles A; Jensen Steven D; Erwin Mark E; Baumgarten Peter J; Blanchard William E; Munroe David  
**Cc:** Wall Judith M; Thomas Lowell D  
**Subject:** GAO Audit # 451007 - VIRTUAL ECONOMIES AND CURRENCIES (GAO-154334-12)  
**Importance:** High

Attached is the draft report for the above referenced audit. SBSE is preparing the IRS response and must have it in clearance by April 17th. Thus, to ensure that SBSE can incorporate our comments in the response, please have any comments you may have to Lowell and I by the close of business on April 15th. If you do not have comments, a negative response is requested. Thanks,

Richard

---

**From:** Reese-Jacobs Donna Y [<mailto:Donna.Y.Reese-Jacobs@irs.gov>]  
**Sent:** Wednesday, April 10, 2013 4:55 PM  
**To:** Koon Jodi L; Ronk Alice L  
**Cc:** Berman Samuel; Goldstein Richard S  
**Subject:** ACTION DUE: JC Code 451007 VIRTUAL ECONOMIES AND CURRENCIES Additional IRS Guidance Could Reduce Tax Compliance Risks  
**Importance:** High

GAO has issued their draft report on the subject audit. SB/SE is the lead stakeholder and will prepare the IRS response with input from Counsel. The IRS response is due to GAO by May 3, 2013. The draft response approved by SB/SE Director, Examination and Chief Counsel will be due to GTI by April 17, 2013. This will allow for further clearance and to meet Legislative Affairs due date of April 29, 2013.

The GAO recommends the following action:

(b)(5)

Attached to assist with preparing the response is:

§ Draft Report for IRS Comment & 451007 draft report cover memo  
§ JC 451007 Draft Report Note to Reviewer  
§ Staff Routing Sheet (2)  
§ Sample Signed Response  
§ GAO 451007 IRS Response.doc Template

*Donna Reese-Jacobs,*

*TIGTA/GAO LIAISON*

SBSE, Communications and Stakeholder Outreach

GAO/TIGTA/IMRS Branch (GTI )

V: 202-283-1547

F: 202-283-2385

Email: [donna.y.reese-jacobs@irs.gov](mailto:donna.y.reese-jacobs@irs.gov)

**From:** [Jones, Ronald W](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Lindenmuth Philip J](#); [Hall Charles A](#); [Griffin Adrienne E](#); [Prasad Girish](#); [Durrett Andrew](#); [Curteman Thomas W](#); [Pflanz Shareen S](#); [Rotunno Norma C](#); [Osborne Martin L](#)  
**Subject:** RE: GAO Audit meeting  
**Date:** Monday, January 14, 2013 1:38:43 PM

---

Donna, below I list the GAO participants. Thanks much for your time and the info, Ron

Strategic Issues

Jeff Arkin, Assistant Director

Danielle Novak, Analyst

Ronald Jones, Analyst

Office General Counsel

Sabrina Streagle, Attorney

Ronald W. Jones,  
Senior Analyst, Tax Issues  
Strategic Issues  
U.S. Government Accountability Office  
2635 Century Parkway, Suite 700  
Atlanta, GA 30345  
e-mail: [jonesrw@gao.gov](mailto:jonesrw@gao.gov)  
voice: (404) 679-1975  
fax: (404) 679-1819

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irsounsel.treas.gov>]  
**Sent:** Monday, January 14, 2013 1:20 PM  
**To:** Jones, Ronald W  
**Cc:** Lindenmuth Philip J; Hall Charles A; Griffin Adrienne E; Prasad Girish; Durrett Andrew; Curteman Thomas W; Pflanz Shareen S; Rotunno Norma C; Osborne Martin L  
**Subject:** GAO Audit meeting

Hi Mr. Jones, Here's a list of IRS Counsel participants at today's meeting (Jan. 14, 2013). Please let us know if you need anything further.

Donna Welsh  
Senior Technician Reviewer  
Income Tax and Accounting, Branch 4  
202-622-7547  
Room 4241(window)

**Procedure and Administration**

Philip J. Lindenmuth ;

Charles A. Hall

Adrienne E. Griffin

Girish Prasad

Andrew Durrett  
Thomas W. Curteman

**Income Tax and Accounting**

Donna J. Welsh  
Shareen S. Pflanz  
Norma C. Rotunno  
Martin (Duke) Osborne



**From:** [Griffin Adrienne E](#)  
**To:** [Pflanz Shareen S](#); [Durrett Andrew](#); [Curteman Thomas W](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** RE: GAO Audit meeting  
**Date:** Thursday, January 10, 2013 3:07:45 PM

---

Thanks. Here is the link to the European Central Bank study on virtual currency.  
<http://www.ecb.int/pub/pdf/other/virtualcurrencyschemes201210en.pdf>

***Adrienne Griffin***

CC:PA:Branch 1  
Rm. 5230  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

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**From:** Pflanz Shareen S  
**Sent:** Thursday, January 10, 2013 1:44 PM  
**To:** Hall Charles A; Lindenmuth Philip J; Griffin Adrienne E; Prasad Girish; Durrett Andrew; Curteman Thomas W  
**Cc:** Welsh Donna J  
**Subject:** GAO Audit meeting

CC:ITA is meeting in room 4037 for the GAO Audit phone call on Monday, 1/14, if you'd like to join us. (It is the same room we met today.) Thanks! Shareen

Shareen S. Pflanz  
CC:ITA:4  
(202) 622-7824

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Baumgarten Peter J](#)  
**Subject:** RE: GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel  
**Date:** Wednesday, April 03, 2013 11:27:27 AM

---

I'm planning on it.

Doug Fahey  
202.622.7883

---

**From:** Welsh Donna J  
**Sent:** Wednesday, April 03, 2013 11:18 AM  
**To:** Fahey Douglas A; Baumgarten Peter J  
**Subject:** FW: GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel

I will phone in tomorrow for this. I have a dr appt in the am and will work at home in the pm. Will you both be participating? Thanks.

---

**From:** Rutstein Joel S [<mailto:Joel.S.Rutstein@irs.gov>]  
**Sent:** Wednesday, April 03, 2013 7:46 AM  
**To:** Welsh Donna J; Cottrell Mark E; Griffin Adrienne E; Prasad Girish; Fahey Douglas A; Hall Charles A; McKinney Natalie; Shelburne Anne P; Blanchard William E; Camillo Lynne A; Shepherd Neil D; Baumgarten Peter J; Berman Samuel; Tuzynski Laurie; Smith Molly M; Reese-Jacobs Donna Y  
**Cc:** Goldstein Richard S; Thomas Lowell D  
**Subject:** RE: GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel

<< File: BOSTON-#306991-v1-451007\_\_UPDATED\_EXIT\_DOCUMENT\_FOR\_4\_4\_13\_MEETING\_WITH\_IRS.DOCX >>  
Attached, please find GAO's updated statement of facts for tomorrow's meeting. GAO points to the following "The areas we'd like to discuss on tax requirements start on page 9. The discussion on guidance starts on p.14."

I took a quick look at the discussion on guidance on page 14, and, though I don't know if this was discussed at the exit conference last week which I was unable to attend, it seems to me that GAO might in its draft report recommend that IRS publish guidance on [irs.gov](http://irs.gov). My speculation is based on the following which comes from the very end of the document:

(b)(5)

It would be unusual for Chief Counsel to initiate the formal response to a GAO draft report. Do we know if SB/SE expects to initiate the response to GAO's draft report that would be signed by the Deputy Commissioner (SE)?

---

**From:** Rutstein Joel S

**Sent:** Tuesday, April 02, 2013 2:07 PM

**To:** Welsh Donna J; 'Arkin, Jeffrey L'; Cottrell Mark E; Griffin Adrienne E; Prasad Girish; Fahey Douglas A; Hall Charles A; McKinney Natalie; Shelburne Anne P; Blanchard William E; Camillo Lynne A; Shepherd Neil D; Baumgarten Peter J; Berman Samuel

**Cc:** Reese-Jacobs Donna Y; Novak, Danielle N

**Subject:** GAO on Virtual Economies and Currencies (Job Code 451007) - Post-Exit Conference Meeting with Counsel

**When:** Thursday, April 04, 2013 2:00 PM-3:00 PM (GMT-05:00) Eastern Time (US & Canada).

**Where:** 1-888-331-8226 (IRS Phones 312-777-1455), access code 5830474

This is the invitation to a post-exit conference meeting that GAO requested with IRS Chief Counsel on virtual economies and currencies (Job Code 451007). The two main things GAO wants to cover are the income and information reporting rules related to virtual economies and currencies and IRS's process for, and decisions about, issuing guidance, with a focus on web guidance. GAO is revising the statement of facts it circulated before the exit conference, and I'll circulate it to all of you upon receipt.

The list of Counsel invitees for this initial sending of this invitation was supplied by Donna Welsh of IT&A. If any of you are unable to attend at the date and time listed above, please make sure someone else from your office can attend in your stead.

Thanks, Joel

Joel S. Rutstein

Program Manager, GAO/TIGTA Audits

Legislation and Reports Branch

Office of Legislative Affairs

(202) 622-4133

(202) 622-5247 (fax)

Email: [joel.s.rutstein@irs.gov](mailto:joel.s.rutstein@irs.gov)

Web: <http://irweb.irs.gov/AboutIRS/bu/cl/la/lagt/default.aspx>

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#)  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies  
**Date:** Thursday, February 20, 2014 11:39:08 AM

---

Okay, I'll be down in a few minutes and we can call Donna from there.

Doug Fahey

**NEW PHONE 202-317-4619**

---

**From:** Aqui Keith A  
**Sent:** Thursday, February 20, 2014 11:38 AM  
**To:** Fahey Douglas A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I am free now.

---

**From:** Fahey Douglas A  
**Sent:** Thursday, February 20, 2014 11:38 AM  
**To:** Aqui Keith A  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Keith, are you free now or would you rather make the call this afternoon?

Doug Fahey

**NEW PHONE 202-317-4619**

---

**From:** Welsh Donna J  
**Sent:** Thursday, February 20, 2014 10:18 AM  
**To:** Aqui Keith A; Fahey Douglas A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Yes. Just ring me.

---

**From:** Aqui Keith A  
**Sent:** Thursday, February 20, 2014 9:50 AM  
**To:** Fahey Douglas A; Welsh Donna J  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I am available.

---

**From:** Fahey Douglas A  
**Sent:** Thursday, February 20, 2014 9:50 AM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I'm sorry but I forgot I have a 10:00 meeting this morning. Can we make the call after my 10:00 is over?

Doug Fahey

**NEW PHONE 202-317-4619**

---

**From:** Welsh Donna J  
**Sent:** Wednesday, February 19, 2014 3:33 PM  
**To:** Fahey Douglas A; Aqui Keith A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Good. Pls call me at home 703-237-3454.

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 19, 2014 3:27 PM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

How about tomorrow morning at 10:30?

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Welsh Donna J  
**Sent:** Wednesday, February 19, 2014 2:11 PM  
**To:** Fahey Douglas A; Aqui Keith A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

[Redacted]

Can

(b)(5)

wepls meet to discuss. I think there should be a date, but not sure what one.

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, February 19, 2014 11:27 AM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

FYI. Any thoughts?

[Redacted]

(b)(5)

[Redacted]

(b)(5)

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Freeman Curtis L [<mailto:Curtis.L.Freeman@irs.gov>]  
**Sent:** Friday, February 14, 2014 1:51 PM  
**To:** Fahey Douglas A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

[Redacted]

(b)(5)

# Curtis L. Freeman

## Media & Publications

[Curtis.L.Freeman@irs.gov](mailto:Curtis.L.Freeman@irs.gov)

Desk/Laptop 202-317-6152 Cell: 202.360.2110 ID No. 1000060754

---

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irs.counsel.treas.gov>]

**Sent:** Friday, February 14, 2014 1:13 PM

**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Subject:** Greensheet Circulation - Notice on Virtual Currencies

EXPEDITED REVIEW REQUESTED

Attached is a proposed notice that provides guidance in a Q&A format on some of the tax consequences arising from transactions using virtual currencies, including Bitcoin. The notice is targeted for release by the end of this month, so please submit any comments to me no later than COB Friday 2/21/14.

<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey

**NEW PHONE 202-317-4619**

**From:** [Welsh Donna J](#)  
**To:** [Berman Samuel](#)  
**Cc:** [Fahey Douglas A](#); [Agui Keith A](#)  
**Subject:** RE: How Will the IRS Tax Bitcoin?  
**Date:** Friday, January 03, 2014 11:00:53 AM

---

Hi Sam, Will do. I will follow up with Treasury early next week.

---

**From:** Berman Samuel  
**Sent:** Friday, January 03, 2014 10:03 AM  
**To:** Welsh Donna J  
**Subject:** RE: How Will the IRS Tax Bitcoin?

Donna,

Thanks. Please let me know if you get an estimated time for getting them back from Treasury. Duane was hoping to have these posted soon. I'll probably be asked about the estimated timeframe.

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Welsh Donna J  
**Sent:** Thursday, January 02, 2014 10:38 AM  
**To:** Berman Samuel  
**Subject:** RE: How Will the IRS Tax Bitcoin?

Hi Sam, Just logging on after the holidays. Thanks for article. The FAQs are moving through Treasury.

---

**From:** Berman Samuel  
**Sent:** Monday, December 23, 2013 1:33 PM  
**To:** Welsh Donna J  
**Subject:** FW: How Will the IRS Tax Bitcoin?

Donna,

This is a recent Wall Street Journal article on the taxation of bitcoin transactions. The FAQs will answer many of the tax-related questions that the article raises. Do you have anything new on the status of the FAQs?

Samuel Berman  
Special Counsel  
Office of Division Counsel

(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Marshall William P [<mailto:William.P.Marshall@irs.gov>]

**Sent:** Monday, December 23, 2013 1:07 PM

**To:** Berman Samuel; Gillen Duane M; Ronk Alice L; Chagami Cathy E; Lightfoot Mary A; Lincoln Sheri L; McCarthy Kevin F; O'Rourke Maureen; Whitehall Michael C

**Subject:** How Will the IRS Tax Bitcoin?

# How Will the IRS Tax Bitcoin?

## The Wall Street Journal

December 20, 2013

### How Will the IRS Tax Bitcoin?

**It's an open question, but one with growing consequences**

By Laura Saunders

Despite a recent plunge, bitcoin has had a banner year. Now comes the hard part—figuring out the taxes on it.

For the uninitiated, bitcoin is the most prominent of several "virtual currencies"—money that exists only online and isn't backed by any government. Released in 2009 by an unknown person or group going by the name Satoshi Nakamoto, bitcoin is maintained by a decentralized network of computers, called "miners," that process and verify transactions. As of Friday afternoon, the value of all bitcoins in circulation was nearly \$8 billion, according to CoinDesk.

This year the price of a bitcoin has risen from about \$13.50 to about \$650 on some exchanges, down from a November high of about \$1,200 just before concerns arose that China will crack down on the virtual currency.

Experts say, however, that there's no agreement on a host of fundamental questions for U.S. taxpayers holding or using virtual currencies. "People who invested in bitcoin or used it to buy goods or services this year have gains or losses, but no rules for reporting them," says Omri Marian, a professor of law at the University of Florida in Gainesville. "What should they do in April?"

Among the pressing issues: When should bitcoin be considered a commodity, a currency or a capital asset for tax purposes? Are bitcoin transactions similar to barter? Is bitcoin subject to the same stringent tax rules as secret offshore accounts? And how will U.S. officials keep bitcoin, which is even more anonymous than cash, from being used to promote tax evasion or money laundering?

So far, the Internal Revenue Service hasn't ruled on or addressed such issues directly. An agency spokesman released the following statement: "The IRS continues to study virtual currencies and intends to provide some guidance on the tax consequences" of transactions involving them. The agency is also "aware of the potential tax compliance risks posed by virtual currencies," he added.

Meanwhile, bitcoin investors and users should be aware of some thorny basic issues. If bitcoin is a capital asset like a stock, says David Shapiro, a principal at PricewaterhouseCoopers in Washington, then long-term capital gains and losses—those on



assets held for more than a year—would qualify for a top federal rate of about 24%. But losses above \$3,000 could only be deducted against other capital gains.

If, on the other hand, bitcoin counts as a currency (like euros or yen), then gains will be taxed at federal rates on ordinary income up to 43.4%, Mr. Shapiro says, and losses will be fully deductible against ordinary income like wages.

In its preliminary filing, the Winklevoss Bitcoin Trust—a public fund registered by brothers Cameron and Tyler Winklevoss, of Facebook fame—said it intends to treat bitcoin as a capital asset instead of a currency, unless the IRS rules otherwise.

Clearly, someone could have a taxable gain or loss in bitcoin when it is sold or given away. But there could also be a taxable gain or loss when bitcoin is used simply to purchase goods or services, says Mindi Lowy, a tax director at PricewaterhouseCoopers in New York. "The fact that using bitcoin to buy something could trigger taxes will come as a surprise to typical consumers," she says. Most people, after all, don't think of spending money as an act that could generate taxable gains or losses.

Taxpayers may also have difficulty tracking a bitcoin's "cost basis," which is the price used as the starting point for measuring taxable gain or loss, says Ms. Lowy. Unlike with assets such as stock or mutual funds, there's no institution keeping bitcoin records, and taxpayers may not even know they need to do so themselves.

Also up in the air: whether offshore-account reporting rules apply to bitcoin. Taxpayers with \$10,000 or more in non-U.S.-based financial accounts often have to report the accounts to the U.S. even if they don't generate income, or else they risk severe penalties.

A spokesman for FinCen, the U.S. Treasury Department unit charged with preventing financial crimes, says this question is "under consideration and will be made in consultation with the IRS," but it's unclear when.

The IRS could face a bigger headache if bitcoin and its kin replace tax havens as the venue of choice for tax evaders, Mr. Marian says.

"Virtual currencies possess the traditional benefits of tax havens: anonymity and no tax," he says. While rules now taking effect are putting pressure on governments and financial institutions to end offshore tax evasion, he adds, "virtual currencies pose a threat to this recent success because they don't depend on banks or governments."

Mr. Marian says that he and many other specialists are "stumped" as to how the IRS will rule on bitcoin. He says his own sense is that it's a commodity similar to gold, because there's a finite supply and it's a store of value. He adds that some bitcoin transactions may be akin to barter—which has its own tricky tax rules.

In the absence of guidance, advisers are telling clients that bitcoin income, gains and losses should be declared to the IRS.

"If you take a reasonable position, they probably will accept it," says Jonathan Horn, a certified public accountant in New York. He plans to advise his clients to file foreign account disclosures if they meet certain thresholds and hold bitcoin through an entity that isn't located in the U.S.

Taxpayers who have bitcoin and flout the tax rules, Mr. Horn warns, "are opening themselves to penalties, interest and possible fraud prosecution."

**From:** Schenck Carolyn A  
**To:** Edelman Edward M; Karavitis Roula; Nicholls Lori J; Stone Christine; Peraza Lilia R; Huang Jeff J; Bray Patricia A; Skutley Michael R; Utzke David J; Carter Kareem A; Welsh Donna J; Driscoll Robert G; Edelman Edward M  
**Subject:** RE: Initial Meeting for the Offshore Arrangements IPN -Virtual Currency Issue Team  
**Date:** Monday, January 13, 2014 5:09:48 PM  
**Attachments:** Overstock Bitcoin Press Release Jan 9,2014.pdf

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Thought you might find this interesting :

<http://investors.overstock.com/phoenix.zhtml?c=131091&p=irol-newsArticle&ID=1889670&highlight=bitcoin>

Carolyn

\* \* \* \* \*

Carolyn A. Schenck  
Senior Counsel  
Office of Chief Counsel, IRS  
213.894.3027 (T.) | 213.894.6548 (F.)

Please visit the "[My SB/SE Counsel](#)" website for directories, technical articles, and more

-----Original Appointment-----

**From:** Edelman Edward M [<mailto:Edward.M.Edelman@irs.gov>]

**Sent:** Monday, December 02, 2013 2:33 PM

**To:** Karavitis Roula; Nicholls Lori J; Stone Christine; Peraza Lilia R; Huang Jeff J; Bray Patricia A; Skutley Michael R; Utzke David J; Carter Kareem A; Welsh Donna J; Driscoll Robert G; Schenck Carolyn A; Edelman Edward M

**Subject:** Initial Meeting for the Offshore Arrangements IPN -Virtual Currency Issue Team

**When:** Wednesday, January 15, 2014 8:00 AM-9:00 AM (UTC-08:00) Pacific Time (US & Canada).

**Where:** Conference Call : Call- In#: [REDACTED] (b)(7)(E)

When: Wednesday, January 15, 2014 8:00 AM-9:00 AM (GMT-08:00) Pacific Time (US & Canada).

Where: Conference Call : Call- In#: [REDACTED] (b)(7)(E)

Note: The GMT offset above does not reflect daylight saving time adjustments.

\*~\*~\*~\*~\*~\*~\*~\*~\*

Our initial meeting via Conference Call for the Offshore Arrangements IPN - Virtual Currency Issue Team is finally here. I'm sure we have all seen the recent news articles concerning "Virtual Currency" and how it is going mainstream. Is there any hotter topic? (Okay I'm sure there are, but just humor me for awhile).

You have agreed to be a member of this Issue Team, where we hope to share knowledge about the tax issues raised by use of "Virtual Currency" and keep up to date on new developments in the area. The overall purpose of this Issue Team is to:

- Gain knowledge about the tax issues raised by use of “Virtual Currency” and keep up to date on new developments in the area.
- Share Knowledge with the Network - beginning with a Basic overview of Virtual Currency for field awareness.

Please join the Issue Team for it's first meeting via Conference Call on:

When: Wednesday, January 15, 2014 at 11:00 A.M. Eastern Time (8:00 A.M Pacific; 10:00 A.M. Central)

Call -In #:  (b)(7)(E)

Access Code:  (b)(7)(E)

An Agenda for the Meeting is attached as is an article that explores the tax consequences of transactions dealing in virtual currencies, such as

the Bitcoin.

<<How to UNZIP.html>> <<SecureZIP Attachments.zip>>

<< File: How to UNZIP.html >> << File: SecureZIP Attachments.zip >>

Following are excerpts from a Forbes article published yesterday regarding the vacuum of tax guidance being provided by the IRS on the treatment of virtual currency. The article does not disclose who its IRS source is; however, following is a quote from an article I found by a journalist named Laura Saunders with Barrons providing a quote from an IRS spokesperson on 12.20.2013, which parallels this Forbes article:

So far, the Internal Revenue Service hasn't ruled on or addressed such issues directly. An agency spokesman released the following statement: "The IRS continues to study virtual currencies and intends to provide some guidance on the tax consequences" of transactions involving them. The agency is also "aware of the potential tax compliance risks posed by virtual currencies," he added.

Among the pressing issues: When should bitcoin be considered a commodity, a currency or a capital asset for tax purposes? Are bitcoin transactions similar to barter? Is bitcoin subject to the same stringent tax rules as secret offshore accounts? And how will U.S. officials keep bitcoin, which is even more anonymous than cash, from being used to promote tax evasion or money laundering?

Also up in the air: whether offshore-account reporting rules apply to bitcoin. A spokesman for FinCEN says this question is "under consideration and will be made in consultation with the IRS," but it's unclear when.

“The IRS could face a bigger headache if bitcoin and its kin replace tax havens as the venue of choice for tax evaders,” Mr. Marian (a professor of law at the University of Florida) says.

Virtual currencies possess the traditional benefits of tax havens: anonymity and no tax. With rules now taking effect are putting pressure on governments and financial institutions to end offshore tax evasion, virtual currencies pose a threat to this recent success because they don't depend on banks or governments.

Mr. Marian says that he and many other specialists are "stumped" as to how the IRS will rule on Bitcoin. He says his own sense is that it's a commodity similar to gold, because there's a finite supply and it's a store of value. He adds that some Bitcoin transactions may be analogous to barter—which has its own tricky tax rules.

### Forbes article highlights

Bitcoin is usually described as virtual currency. That's useful shorthand, but is it really money? And should it be taxed as if it is? Or is it a capital asset? How about a commodity? And then there is the matter of using this quasi-cash to avoid taxes and regulation altogether.

The IRS says it is studying the matter but has yet to issue any guidance. Until it does, it is anyone's guess how Bitcoin should be taxed. Most users/investors will simply pick what is most beneficial to them when they file their 2013 returns.

Curiously, the motivating force for the IRS to issue guidance may be an effort by Cameron and Tyler Winklevoss (best known until now for their legal battle with Mark Zuckerberg over Facebook) to create an exchange-traded fund to track Bitcoin prices. The twins are awaiting SEC approval for their ETF but their very request raises important tax policy questions that need to be answered.

Back in November, Mindi Lowy and Miriam Abraham of PriceWaterhouseCoopers wrote a terrific review of the current state of play for *Tax Notes Today* (requires a subscription). They concluded that for now virtual currency would probably be viewed as a capital asset... . However, should these vehicles gain wider commercial acceptance, they'd more likely be treated as actual currency for tax and regulatory purposes.

If Bitcoin is a capital asset (the Winklevoss ETF would treat it that way), long-term gains and losses would be subject to preferential capital gains rates (23.8 percent for high-income taxpayers). What if Bitcoin is a currency for tax purposes, the same as, say a euro? In that case, profits from sales would be taxed as ordinary income, with a top rate of 39.6 percent... .

Then there is the matter of using virtual currency to avoid all tax—as well as other laws. Last Thursday, the *Wall Street Journal's* Danny Yadron wrote a fascinating piece about Cody Wilson, the guy who made himself famous by posting online instructions for making plastic guns from 3-D printers. Wilson says he is working on software called Dark Wallet that would defeat the government's ability electronically track Bitcoin transactions.

But virtual currency isn't likely to go away. It would be useful if users didn't have to guess at its tax treatment.

**David J Utzke, PhD, MAFF, CFE, CFI, CESA**

**International Technical Specialist, Offshore Compliance, IIC, LB&I**

**Phone: 626.927.1237**

**Fax: 855.702.8175**

**From:** [Welsh Donna J](#)  
**To:** [Moriarty John P](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** RE: Inside Bitcoin  
**Date:** Friday, March 28, 2014 5:37:30 PM

---

No need to apologize, people often confuse Donna C and me.

[REDACTED]

(b)(5)

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**From:** Moriarty John P  
**Sent:** Friday, March 28, 2014 5:25 PM  
**To:** Welsh Donna J  
**Cc:** Crisalli Donna M  
**Subject:** FW: Inside Bitcoin

This should have gone to you in the first place. Sorry about that.

John

---

**From:** Crisalli Donna M  
**Sent:** Friday, March 28, 2014 5:07 PM  
**To:** Moriarty John P  
**Cc:** Keyso Jr. Andrew J  
**Subject:** RE: Inside Bitcoin

Wrong Donna

**Donna M. Crisalli**  
**(202) 317-4611**

---

**From:** Moriarty John P  
**Sent:** Friday, March 28, 2014 5:04 PM  
**To:** Crisalli Donna M  
**Cc:** Keyso Jr. Andrew J  
**Subject:** FW: Inside Bitcoin

As we discussed, [REDACTED]

(b)(5)

[REDACTED]

(b)(5)

John

---

**From:** Moriarty John P  
**Sent:** Friday, March 28, 2014 5:03 PM  
**To:** 'daniel.l.tannebaum@us.pwc.com'  
**Cc:** Welsh Donna J ([Donna.J.Welsh@irs.counsel.treas.gov](mailto:Donna.J.Welsh@irs.counsel.treas.gov))  
**Subject:** RE: Inside Bitcoin

Dan,

I've asked Donna Welsh to get back to you about this request and am copying her to put her in

touch with you.

John P. Moriarty  
Deputy Associate Chief Counsel (ITA)  
202-317-7002

**From:** [daniel.l.tannebaum@us.pwc.com](mailto:daniel.l.tannebaum@us.pwc.com) [<mailto:daniel.l.tannebaum@us.pwc.com>]  
**Sent:** Friday, March 28, 2014 11:26 AM  
**To:** Moriarty John P  
**Subject:** Inside Bitcoin

Hi John,

As we discussed this is the event, Inside Bitcoins NYC -  
<http://www.mediabistro.com/insidebitcoins/new-york/?c=bcoinnyelmb>.

The agenda is here: [http://www.mediabistro.com/insidebitcoins/new-york/agenda\\_day1.asp](http://www.mediabistro.com/insidebitcoins/new-york/agenda_day1.asp)

This is the panel description:



What I'm looking for from the IRS is to help understand their position from a regulatory compliance standpoint as the Federal Agency responsible for examining MSBs from a regulatory compliance standpoint.

Let me know if you need any additional information.

Regards,  
Dan

**Daniel L Tannebaum**

PwC | Director  
Office: 646-471-7159 | Mobile: 202-320-7243  
Email: [daniel.l.tannebaum@us.pwc.com](mailto:daniel.l.tannebaum@us.pwc.com)  
PricewaterhouseCoopers LLP  
300 Madison Avenue New York, NY 10017  
<http://www.pwc.com/us>

---

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**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** RE: Interagency Bank Fraud Working Group  
**Date:** Thursday, March 27, 2014 10:19:00 AM

---

Yes, it does. I understand Rochelle has condescended to appear.

---

**From:** Fahey Douglas A  
**Sent:** Thursday, March 27, 2014 9:03 AM  
**To:** Aqui Keith A  
**Cc:** Welsh Donna J  
**Subject:** FW: Interagency Bank Fraud Working Group

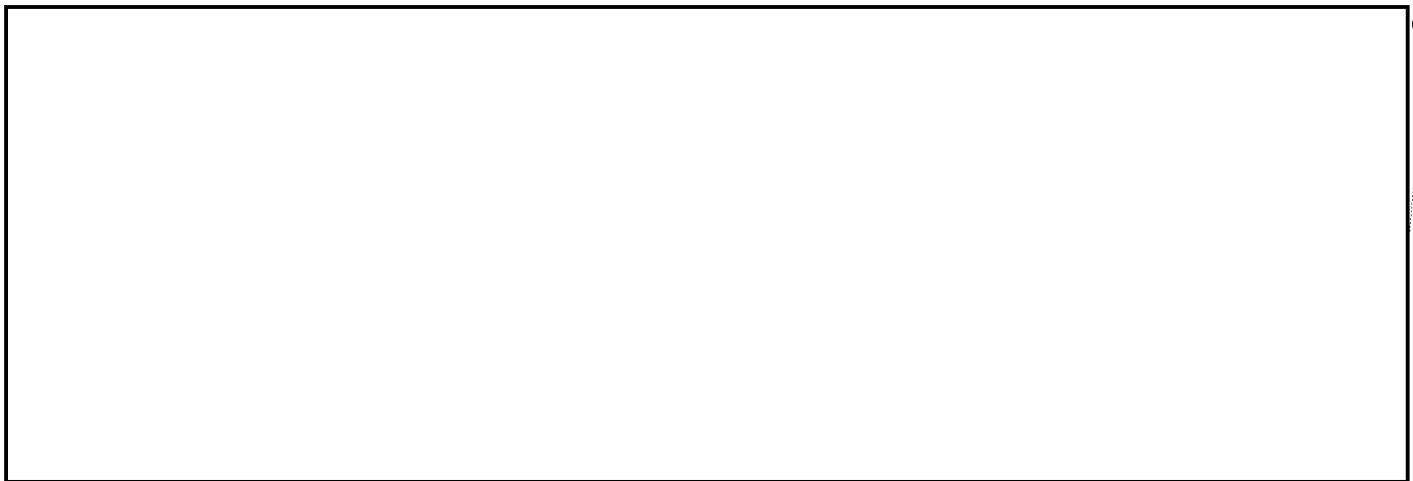
Keith – I'm wondering if this guy and Dan Tannenbaum were calling about the same thing. Does this sound similar?

**Doug Fahey**  
**202.317.4619**

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, March 26, 2014 4:10 PM  
**To:** Walli Karl - OTP; Hodes Rochelle - OTP  
**Cc:** Fahey Douglas A  
**Subject:** Interagency Bank Fraud Working Group

Karl and Rochelle –



(b)(5)

Ray

**From:** [Aqui Keith A](#)  
**To:** [Griffin Adrienne E](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** RE: IRS not to provide additional guidance on tax treatment of virtual currency transactions  
**Date:** Tuesday, August 16, 2016 12:58:19 PM

---

I agree.

---

**From:** Griffin Adrienne E  
**Sent:** Friday, August 12, 2016 6:07 PM  
**To:** Aqui Keith A  
**Subject:** FW: IRS not to provide additional guidance on tax treatment of virtual currency transactions

Hi Keith –

I just wanted to let you know that Emily and I spoke about this and she suggested I might want to contact media relations about this. In particular if I think there is anything inaccurate in this article or in this one that I later found - <https://taxrevolution.us/how-the-irs-let-bitcoin-pass-it-by/>



(b)(5)

Thanks,  
Adrienne

***Adrienne Griffin***

Senior Technician Reviewer  
CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
**202-317-5155**

---

**From:** Griffin Adrienne E  
**Sent:** Friday, August 12, 2016 12:46 PM  
**To:** Lesniak Emily M  
**Cc:** Aqui Keith A  
**Subject:** FW: IRS not to provide additional guidance on tax treatment of virtual currency transactions

Hi Emily –



(b)(5)



Thanks,  
Adrienne

**Adrienne Griffin**

Senior Technician Reviewer  
CC:PA:01  
1111 Constitution Ave, NW  
Washington, DC 20224  
**202-317-5155**

---

**From:** Mishory Eliezer  
**Sent:** Friday, August 12, 2016 12:34 PM  
**To:** Griffin Adrienne E  
**Subject:** FW: IRS not to provide additional guidance on tax treatment of virtual currency transactions

Not sure what, if any, response is necessary.

---

**From:** Utzke David J [<mailto:David.Utzke@irs.gov>]  
**Sent:** Friday, August 12, 2016 11:39 AM  
**To:** Edelman Edward M; Mishory Eliezer  
**Cc:** Danko Wojciech J  
**Subject:** IRS not to provide additional guidance on tax treatment of virtual currency transactions

I'm passion on the following information based on recent conversations.

According to the latest report posted yesterday (08.11.2016) by *EconoTimes*, the IRS has no plans to provide updates on how existing general tax principles apply to transactions using virtual currency.

Recognizing that there may be other questions regarding the tax consequences of virtual currency not addressed in the notice, the Treasury Department and the IRS requested comments from the public regarding other types or aspects of virtual currency transactions that should be addressed in future guidance. In June 2016, the American Institute of CPAs (AICPA) sent a letter to the IRS highlighting 10 major issues not addressed in the notice and requested the IRS to release additional, much needed, guidance on virtual currency.

According to Tax Revolution (a non-partisan, 501(c)(3)-pending organization committed to promoting transparency, accountability and integrity at all levels of the U.S. tax system), the IRS has no plans on releasing additional guidance. Keith Aqui, principal author, and Adrienne Griffin, information-reporting specialist, have confirmed that they do not intend to respond, nor are there any ongoing or planned

projects to update the 2014 notice. The media source further highlighted that the authors struggled to explain the meaning of their 2014 notice and deflected to other coauthors when asked about computing gains and reporting them for every transaction.

David J. Utzke, Sr., PhD, MAFF, CFE, CFI, CEPS  
Sr Agent, Offshore Compliance Initiatives  
Withholding & International Individual Compliance, LB&I  
Phone: 626.927.1237

**From:** [Cook Janine](#)  
**To:** [Shepherd Neil D](#); [Camillo Lynne A](#); [Carlino Paul J](#); [Richards John B](#); [Munroe David](#)  
**Cc:** [Aqui Keith A](#)  
**Subject:** Re: IT&A's Questions & Answers  
**Date:** Thursday, August 15, 2013 4:17:35 PM

---

Thx

---

**From:** Shepherd Neil D  
**Sent:** Thursday, August 15, 2013 01:38 PM  
**To:** Cook Janine; Camillo Lynne A; Carlino Paul J; Richards John B; Munroe David  
**Cc:** Aqui Keith A; Shepherd Neil D  
**Subject:** IT&A's Questions & Answers

Per Keith's e-mail below, IT&A appears to be about where we are. Note that IT&A and TEGE aren't the only Divisions involved in responding to the questions.

---

**From:** Aqui Keith A  
**Sent:** Thursday, August 15, 2013 1:08 PM  
**To:** Shepherd Neil D  
**Cc:** Welsh Donna J  
**Subject:** RE: Committee on Homeland Security and Governmental Affairs

Thank you very much. On 7/30, Donna transmitted a draft of ITA's suggestions to Doug Fahey in our front office. Once the suggestions are approved, we shall share them with the rest of the group.

---

**From:** Shepherd Neil D  
**Sent:** Thursday, August 15, 2013 12:33 PM  
**To:** Aqui Keith A  
**Cc:** Richards John B; Burns Gregory; Shepherd Neil D  
**Subject:** Committee on Homeland Security and Governmental Affairs

Greetings, Keith. Here's a link to an article discussing the letter from the Committee on Homeland Security and Governmental Affairs relating to virtual currencies. The letter to Secretary Napolitano is attached below. Evidently, the Committee sent something similar to this to the Department of the Treasury.

<< File: Virtual Currency Letter.pdf >>

---

**From:** Shepherd Neil D  
**Sent:** Wednesday, August 14, 2013 12:59 PM  
**To:** Welsh Donna J  
**Cc:** Cook Janine; Camillo Lynne A; Carlino Paul J; Munroe David; Shepherd Neil D  
**Subject:** Senate Homeland Security and Government Affairs Committee

Greetings, Donna. Evidently, the Senate Homeland Security and Government Affairs Committee on Monday sent letters to several agencies [including the Department of the Treasury] requesting that "they disclose their virtual currency policies, how they developed them, how agencies are coordinating

and finally what they plan to do going forward." See the attached link. I couldn't find the letter on the internet, but whoever is coordinating our efforts with main Treasury should know about it--if they don't already. We don't want to be freelancing on this thing.

Many thanks.

<http://www.politico.com/story/2013/08/congress-starts-looking-into-bitcoin-95464.html>

**From:** [Aqui Keith A](#)  
**To:** [Berman Samuel](#)  
**Subject:** RE: May 4 2015 Meeting  
**Date:** Thursday, April 16, 2015 2:14:00 PM

---

You are most welcome.

---

**From:** Berman Samuel  
**Sent:** Thursday, April 16, 2015 1:59 PM  
**To:** Aqui Keith A  
**Subject:** RE: May 4 2015 Meeting

Keith,

Thanks.

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Aqui Keith A  
**Sent:** Thursday, April 16, 2015 1:43 PM  
**To:** Keyso Jr. Andrew J; Meola Karla M; Berman Samuel; Welsh Donna J; Shepherd Neil D; Dubert Alexa T; Henkel Melissa A; Griffin Adrienne E; Stahl Raymond J  
**Subject:** FW: May 4 2015 Meeting

FYI.

---

**From:** Greg Zbylut [<mailto:greg@gaztaxlaw.com>]  
**Sent:** Thursday, April 16, 2015 1:25 PM  
**To:** Aqui Keith A  
**Subject:** RE: May 4 2015 Meeting

You're welcome. I look forward to meeting you when we're in D.C. And, in case Paul hasn't mentioned it, the Delegation has a reception on Monday night at the Dolley Madison house from 6-8pm to which you and your colleagues are all invited (the more, the merrier – we usually wind up with a lot of food). It's a nice chance to meet people, socialize and get to know our group and others (Tax Court judges, OPR people) whom you might not otherwise get to meet in a relaxed setting. If you haven't been to the Dolley Madison house, it's an experience worth having. Also, it's an open invite, so feel free to bring your significant other, if you have one. My fiancée will be there, and she always enjoys talking to non-tax people...

Greg

---

**From:** Aqui Keith A [<mailto:Keith.A.Aqui@IRSCOUNSEL.TREAS.GOV>]

**Sent:** Thursday, April 16, 2015 8:17 AM  
**To:** Greg Zbylut  
**Subject:** RE: May 4 2015 Meeting

Thank you very much!

---

**From:** Greg Zbylut [<mailto:greg@gaztaxlaw.com>]  
**Sent:** Wednesday, April 15, 2015 10:05 PM  
**To:** Aquí Keith A  
**Subject:** FW: May 4 2015 Meeting

Keith,

A Word copy of the paper is attached. Let me know if you need anything else.

*signature II*



*ZLO* | Zbylut Law Office

Tax | Corporate | Estate Planning

121 West Lexington Drive  
Suite 202

Glendale, CA 91203

(626) 708-1040      phone      (818) 480-3280

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Licensed in Illinois and California

Rated "AV Preeminent" by Martindale-Hubbell

2012-2014 Southern California "Rising Star"

2013-2014 Pasadena "Top Attorney"

---

**From:** Aquí Keith A [<mailto:Keith.A.Aqui@IRSCOUNSEL.TREAS.GOV>]  
**Sent:** Tuesday, April 14, 2015 10:07 AM  
**To:** [staff@gazfinancial.com](mailto:staff@gazfinancial.com)  
**Cc:** Welsh Donna J  
**Subject:** May 4 2015 Meeting

We are still waiting on the briefing paper. We must circulate it to affected parties in sufficient time before the meeting.

Thanks.

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: MEDIA INQUIRY: Comment from Bitcoin Foundation  
**Date:** Thursday, March 27, 2014 10:51:35 AM

---

Interesting

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, March 26, 2014 4:12 PM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** FW: MEDIA INQUIRY: Comment from Bitcoin Foundation

FYI

**Doug Fahey**  
**202.317.4619**

---

**From:** Friedland Bruce I [<mailto:Bruce.I.Friedland@irs.gov>]  
**Sent:** Wednesday, March 26, 2014 3:59 PM  
**To:** Keyso Jr. Andrew J; Fahey Douglas A  
**Cc:** Patterson Dean J  
**Subject:** MEDIA INQUIRY: Comment from Bitcoin Foundation

A reporter just sent over this blog comment from an entity called the Bitcoin Foundation.

I don't think we should respond or comment, but I wanted to share with you.

Bruce  
202-317-6221

# Blog

## IRS Guidance Further Legitimizes Bitcoin and Provides Clarity, but Demands Unrealistic Reporting

Marco Santori, Chairman, Regulatory Affairs Committee    Mar 26 2014

Yesterday, the United States Internal Revenue Service (IRS), a bureau of the Department of the Treasury, published guidance on how digital currencies like Bitcoin should be treated by Americans for tax reporting purposes. In short, the IRS determined that digital currencies should be treated as property, not as currency,

regardless of the way in which they are used.

The Bitcoin Foundation appreciates the IRS' hard work in providing much-needed clarity to those transacting in digital currencies. The digital currency industry has, on the whole, welcomed greater regulatory clarity for its ability to foster innovation in this critical and emerging space.

However, tax treatment of Bitcoin as a property, and not a currency, may make compliance with tax laws unnecessarily cumbersome and imposes untenable recording and reporting requirements on its users. This is an unwelcome result for most bitcoin users, but is particularly detrimental to those that Bitcoin can help the most: small business and underbanked individuals. When it is used as a currency, Bitcoin should be a frictionless means of paying for goods and services. The tax laws currently permit individuals to ignore small gains and losses in foreign currencies. Similar treatment for digital currencies would harmonize the law with the way most people actually use digital currencies. Artificially characterizing this use case as a transaction in property would make one of the most innovative features of this technology hard to use for those who wish to be compliant.

While the Bitcoin Foundation welcomes greater clarity in the regulatory treatment of the many uses for the Bitcoin protocol, IRS' approach to developing this guidance was not an inclusive one. IRS did not, in particular, seek meaningful input from the digital currency industry or the public at large. As a result, the guidance creates a poor framework for innovation. To the extent that the tax code compelled this unwieldy outcome, a more open process would have identified the limitations of the statutory language and facilitated a dialogue between IRS and the appropriate legislators to address those limitations.

The Bitcoin Foundation welcomes the opportunity to provide more formal comment to IRS in the coming weeks.

The official notice from the IRS can be found [here](#).

Further details, including FAQ, can be found in [Notice 2014-21](#).



**From:** [Keyso Jr. Andrew J](#)  
**To:** [Friedland Bruce I](#)  
**Cc:** [Patterson Dean J](#); [Welsh Donna J](#)  
**Subject:** RE: MEDIA INQUIRY: Press request - information on tax and bitcoin  
**Date:** Thursday, February 05, 2015 11:26:18 AM

---

Donna Welsh of our office took the lead on authoring Notice 2014-21. I'm copying her on this email. I think most of the questions below are answered in the Notice. Obviously, the sales tax question is a state question, not federal. The way the last question is worded it sounds like the reporter is not aware that we have published guidance. Perhaps just a cite to 2014-21 is sufficient here. We don't currently have any plans for additional guidance, but remain open to the possibility. I'm happy to talk if you'd like.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** Friedland Bruce I [<mailto:Bruce.I.Friedland@irs.gov>]  
**Sent:** Thursday, February 05, 2015 11:18 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Patterson Dean J  
**Subject:** MEDIA INQUIRY: Press request - information on tax and bitcoin

I heard that Doug Fahey has left the building. Who is his successor on digital currency issues?

We're not advocating any particular response on this... Honestly, they look pretty basic. We're also responding in the wake of yesterday's Silk Road case conviction.

Bruce

**From:** Emily Spaven [<mailto:emily@coindesk.com>]  
**Sent:** Thursday, February 05, 2015 11:15 AM  
**To:** Friedland Bruce I  
**Subject:** Press request - information on tax and bitcoin

Hi Bruce,

CoinDesk is currently working on an in-depth research report on the topic of digital currency regulation. A section of this focuses on tax, so I'm hoping you can help by answering the following questions:

- What are the tax liabilities of individuals living in the US who have bought and/or sold bitcoin (what kind of tax, if any, do they have to pay?)
  - Does this depend upon the amount they have transacted/traded?
  - Does this depend on the level of gains or losses they have made?

- What are the tax liabilities of US companies who have accepted payment in bitcoin (eg shops)?
- What are the tax liabilities of US companies who act as a bitcoin exchange or marketplace (companies that charge a fee to transfer GBP to bitcoin and vice versa)?
- How about sales tax - how does this come into it?
- Is the IRS thinking of publishing specific guidance relating to digital currency?

If you could get back to me by the end of the day on Monday 9th Feb, that would be ideal.

Kind regards,

Emily Spaven | Managing Editor | [www.coindesk.com](http://www.coindesk.com) | [@coindesk](https://twitter.com/coindesk)



**From:** [Keyes Yvette M](#)  
**To:** [Aqui Keith A](#)  
**Subject:** RE: Meeting on May 4, 2014  
**Date:** Wednesday, March 18, 2015 2:14:15 PM

---

Room 4415, key is in room 3042

---

**From:** Aqui Keith A  
**Sent:** Wednesday, March 18, 2015 1:56 PM  
**To:** Keyes Yvette M  
**Cc:** Welsh Donna J  
**Subject:** RE: Meeting on May 4, 2014

We need a room just as large as Room 4037.

Please invite the following personnel also: Adrienne Griffin, Melissa Henkel (P&A); Neil Shepherd (TEGE); and Raymond Stahl (LBI/INT). Thanks.

---

**From:** Keyes Yvette M  
**Sent:** Wednesday, March 18, 2015 1:47 PM  
**To:** Aqui Keith A  
**Subject:** RE: Meeting on May 4, 2014

The meeting is scheduled on Andy's calendar, but John Aramburu have conference room 4037 on May 4 from 10-11am.

---

**From:** Aqui Keith A  
**Sent:** Wednesday, March 18, 2015 12:28 PM  
**To:** Keyes Yvette M  
**Cc:** Welsh Donna J  
**Subject:** FW: Meeting on May 4, 2014

Please schedule this meeting for 2 hours, 10 – 12, on May 4, 2015 in Conference Room 4037.

Thanks.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Wednesday, March 18, 2015 12:14 PM  
**To:** Aqui Keith A  
**Cc:** Welsh Donna J  
**Subject:** RE: Meeting on May 4, 2014

Yes, that date/time is fine with me Keith. Thanks.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** Aqui Keith A  
**Sent:** Wednesday, March 18, 2015 12:09 PM  
**To:** Keyso Jr. Andrew J  
**Cc:** Welsh Donna J  
**Subject:** FW: Meeting on May 4, 2014

Andy, the LA Bar will be in town on May 4 and has requested a meeting to present their views on the virtual currency Notice. We would prefer to schedule the meeting at 10:00 am if convenient to you or your delegate.

Thanks.

---

**From:** Welsh Donna J  
**Sent:** Tuesday, March 17, 2015 5:36 PM  
**To:** Aqui Keith A  
**Subject:** RE: Meeting on May 4, 2014

Hi Keith, Andy is our Front Office person. We don't have a replacement for Doug.

I would suggest a 10 meeting start time if Andy is available then.

Thanks.

---

**From:** Aqui Keith A  
**Sent:** Tuesday, March 17, 2015 10:51 AM  
**To:** Welsh Donna J  
**Subject:** FW: Meeting on May 4, 2014

With whom in the front office should we coordinate? Thanks.

---

**From:** staff [<mailto:staff@gazfinancial.com>]  
**Sent:** Friday, March 13, 2015 7:50 PM  
**To:** Aqui Keith A  
**Subject:** RE: Meeting on May 4, 2014

Thank you for getting back to me. Can you please confirm whether the meeting is at 9AM or 10AM on May 4<sup>th</sup>?

*Regards,*

*Paul McCullum*

GAZ | GAZ Financial Services  
121 West Lexington Drive  
Suite 202  
Glendale, CA 91203  
P | (818) 480-3280  
F | (626) 737-9637

E | [staff@gazfinancial.com](mailto:staff@gazfinancial.com)

W| [www.gazfinancial.com](http://www.gazfinancial.com)

---

**From:** Aqui Keith A [<mailto:Keith.A.Aqui@IRSCOUNSEL.TREAS.GOV>]

**Sent:** Friday, March 13, 2015 9:27 AM

**To:** [staff@gazfinancial.com](mailto:staff@gazfinancial.com)

**Cc:** Welsh Donna J; Keyso Jr. Andrew J; Griffin Adrienne E; Henkel Melissa A; Shepherd Neil D

**Subject:** Meeting on May 4, 2014

Representatives of the Office of Chief Counsel will meet with you on the Virtual Currency Notice.

**From:** Welsh Donna J  
**To:** Fahey Douglas A; Keyso Jr. Andrew J; Aqui Keith A  
**Subject:** RE: Mining - Bitcoin  
**Date:** Thursday, March 20, 2014 11:38:51 AM

---

That's fine and understand just getting it out.

[REDACTED]

(b)(5)

-----Original Message-----

From: Fahey Douglas A  
Sent: Thursday, March 20, 2014 11:35 AM  
To: Welsh Donna J; Keyso Jr. Andrew J; Aqui Keith A  
Subject: RE: Mining - Bitcoin

I think [REDACTED]

(b)(5)

-----Original Message-----

From: Welsh Donna J  
Sent: Thursday, March 20, 2014 11:34 AM  
To: Keyso Jr. Andrew J; Fahey Douglas A; Aqui Keith A  
Subject: RE: Mining - Bitcoin

From Wiki"

adding transaction records to Bitcoin's public ledger of past transactions

-----Original Message-----

From: Welsh Donna J  
Sent: Thursday, March 20, 2014 11:05 AM  
To: Keyso Jr. Andrew J; Fahey Douglas A; Aqui Keith A  
Cc: Welsh Donna J  
Subject: Mining - Bitcoin

<https://en.bitcoin.it/wiki/Mining>

wiki reference the Bitcoin public transaction ledger so we are good with that.

**From:** [Stahl Raymond J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** RE: Monday's meeting  
**Date:** Monday, May 04, 2015 9:30:50 AM

---

Thanks. I might have mis-filed.

---

**From:** Aqui Keith A  
**Sent:** Monday, May 04, 2015 9:30 AM  
**To:** Stahl Raymond J  
**Subject:** RE: Monday's meeting

Thought I provided it earlier.

---

**From:** Stahl Raymond J  
**Sent:** Friday, May 01, 2015 5:56 PM  
**To:** Welsh Donna J; Aqui Keith A  
**Cc:** Henderson Joseph S  
**Subject:** Monday's meeting

Donna/Keith –

Did we get a briefing paper or any other material related to Monday's 10am meeting?

Best wishes,  
Ray

**From:** [Wall Judith M](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Feldman Janice R](#)  
**Subject:** RE: Most Serious Problems  
**Date:** Friday, September 06, 2013 2:21:10 PM

---

Donna/Doug,

Janice Feldman is the contact in my office. We normally don't need to be involved. But if you need our assistance with respect to process or anything else, please let us know. If you need extensions for the 7 day or 30 day deadlines, please let Nicole Elliott know.

Normally, the "lead" is with one of the ODs. Because the only recommendation in this MSP related to guidance, Nicole decided the lead should be counsel.

Judy Wall  
Special Counsel (National Taxpayer Advocate)  
Office of Chief Counsel  
CC:NTA Suite 3047  
202-622-8131  
202-622-5065 (fax)  
Effective October 2013: 202-317-4128

---

**From:** Keyso Jr. Andrew J  
**Sent:** Thursday, September 05, 2013 1:43 PM  
**To:** Wall Judith M  
**Cc:** Fahey Douglas A; Welsh Donna J  
**Subject:** FW: Most Serious Problems

Judy, as we've discussed previously, Doug Fahey and Donna Welsh are the primary contacts for ITA.

---

**From:** Sterner Christopher B  
**Sent:** Thursday, September 05, 2013 1:31 PM  
**To:** Wall Judith M  
**Cc:** Sterner Christopher B; Elliott Nicole M; Keyso Jr. Andrew J  
**Subject:** FW: Most Serious Problems

Judy, this has been assigned to ITA. Please coordinate as necessary. Thanks.

---

**From:** Sterner Christopher B  
**Sent:** Thursday, September 05, 2013 1:27 PM  
**To:** Elliott Nicole M  
**Cc:** Sterner Christopher B; Wall Judith M  
**Subject:** RE: Most Serious Problems

Judy Wall usually coordinates Counsel's responses to MSPs, so feel free to contact her on future matters. I think we will assign this one to ITA, but I am looking into it and will let you know.

---

**From:** Elliott Nicole M [<mailto:Nicole.M.Elliott@irs.gov>]



**Sent:** Thursday, September 05, 2013 12:59 PM  
**To:** Sterner Christopher B  
**Subject:** Most Serious Problems

Chris: I have been charged with coordinating the response to the MSPs. The first one just came through on digital currency triggering the 7 and 30 day window. I think counsel needs to own this MSP as the problem and recommendations deal with the lack and need of guidance. I will need some help figuring out precisely who in counsel I need to be talking to – both with this particular MSP and in general. I hope you can help. MSP on digital currency is attached.

Nicole M. Elliott  
(202) 927-9588

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Moriarty John P](#)  
**Subject:** RE: My Bitcoin Befuddlement - NYTimes.com  
**Date:** Thursday, April 10, 2014 12:14:12 PM

---

This is great! I think the cited venture capitalist is the guy backing Bitcoin. The more we learn, the less we know (at least me).

-----Original Message-----

From: Fahey Douglas A  
Sent: Thursday, April 10, 2014 11:29 AM  
To: Aqui Keith A; Welsh Donna J  
Cc: Keyso Jr. Andrew J; Moriarty John P  
Subject: My Bitcoin Befuddlement - NYTimes.com

A little Bitcoin humor.

<http://www.nytimes.com/2014/04/06/business/mutfund/my-bitcoin-befuddlement.html?src=recg> #

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** RE: Notice 2014-21 conference call with HSGA  
**Date:** Friday, March 28, 2014 3:17:29 PM

---

Let's gather in John's office and use his conference phone. See you in a few.

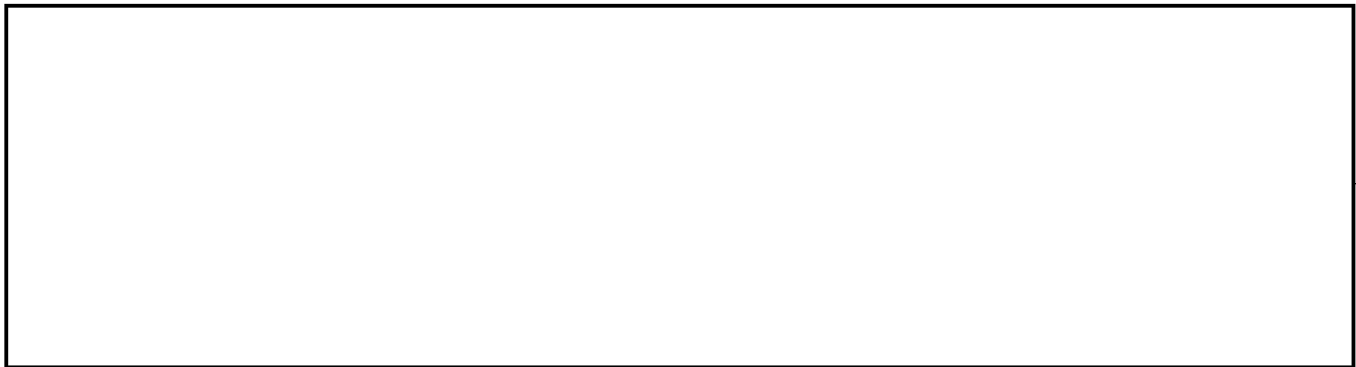
**Doug Fahey**  
**202.317.4619**

---

**From:** Shepherd Sara P [<mailto:Sara.P.Shepherd@irs.gov>]  
**Sent:** Thursday, March 27, 2014 2:41 PM  
**To:** Fahey Douglas A; Welsh Donna J  
**Cc:** Keyso Jr. Andrew J  
**Subject:** Notice 2014-21 conference call with HSGA

Doug and Donna,

I spoke with John Collins today and got a sense of what he'll be asking during tomorrow's conference call.



(b)(5)

Thanks for doing the conference call tomorrow, Sara

Sara P. Shepherd, J.D., LL.M. (Tax)  
Legislative Counsel  
Internal Revenue Service  
Tel: 202-317-4231 (\*new\*)

---

**From:** Collins, John (HSGAC) [[mailto:John\\_Collins@hsgac.senate.gov](mailto:John_Collins@hsgac.senate.gov)]  
**Sent:** Thursday, March 27, 2014 2:11 PM  
**To:** Shepherd Sara P  
**Subject:** Question re: FinCEN guidance

The FinCEN guidance issued last year states, “ In contrast to real currency, “virtual” currency is a medium of exchange that operates like a currency in some environments, but does not have all the attributes of real currency.”

The IRS guidance doesn't to reflect Treasury's previous definition of virtual currency and how it functions. The reporting requirements for the current IRS guidance would not seem to allow for the operation of digital currency as currency in any "real life" environment.

Thanks Sara!

**John G. Collins**

*Senior Professional Staff Member*

*U.S. Senate Committee on Homeland Security and Governmental Affairs*

*Phone: (202) 224-4241*

*Fax: (202) 228-3792*

***Connect with Chairman Carper online:***



[hsgac.senate.gov](http://hsgac.senate.gov)

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: Notice 2014-21 Questions  
**Date:** Thursday, December 04, 2014 5:26:18 PM

---

I concur.

---

**From:** Fahey Douglas A  
**Sent:** Thursday, December 04, 2014 12:42 PM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** RE: Notice 2014-21 Questions

[REDACTED] (b)(5)  
[REDACTED] (b)(5)

**Doug Fahey**  
**202.317.4619**

---

**From:** Aqui Keith A  
**Sent:** Thursday, December 04, 2014 12:20 PM  
**To:** Welsh Donna J; Fahey Douglas A  
**Subject:** RE: Notice 2014-21 Questions

[REDACTED] (b)(3)/26 USC 6108

These questions appear to be within P&A's jurisdiction. Do you concur?

PS. He has already spoken to Kareem Carter.

---

**From:** Welsh Donna J  
**Sent:** Thursday, December 04, 2014 11:47 AM  
**To:** Fahey Douglas A; Aqui Keith A  
**Subject:** RE: Notice 2014-21 Questions

Yes, CCA is written advice. And yes this is CT.

---

**From:** Fahey Douglas A  
**Sent:** Thursday, December 04, 2014 11:44 AM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** RE: Notice 2014-21 Questions

Isn't CCA limited to advice in writing? Donna will know better than I. In any event, it sounds like he wants to talk to someone in CT (Martin Needle) or maybe CI (was it Kareem Carter?).

**Doug Fahey**

202.317.4619

---

**From:** Aqui Keith A  
**Sent:** Thursday, December 04, 2014 11:23 AM  
**To:** Welsh Donna J; Fahey Douglas A  
**Subject:** FW: Notice 2014-21 Questions

Do we field these calls without CCA ramifications?

(b)(3)/26 USC 6103

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Aqui Keith A](#)  
**Subject:** RE: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment  
**Date:** Tuesday, March 10, 2015 11:59:42 AM

---

Yes, agreed.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** Welsh Donna J  
**Sent:** Tuesday, March 10, 2015 10:24 AM  
**To:** Keyso Jr. Andrew J  
**Cc:** Aqui Keith A  
**Subject:** RE: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Good; I will let them know that Counsel will participate. They told me that the paper may focus on why not "currency." Perhaps we should reach out to Ray Stahl once we get the discussion paper.

---

**From:** Keyso Jr. Andrew J  
**Sent:** Monday, March 09, 2015 6:03 PM  
**To:** Welsh Donna J  
**Cc:** Montemurro Michael J; Aqui Keith A  
**Subject:** RE: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Yes, that's fine. Please include me too. I'd like to hear/participate in that discussion. Thanks.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** Welsh Donna J  
**Sent:** Monday, March 09, 2015 5:48 PM  
**To:** Keyso Jr. Andrew J  
**Cc:** Montemurro Michael J; Aqui Keith A  
**Subject:** RE: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Hi Andy, The California Bar would like to have a Counsel participant meet on May 4 with them to discuss taxation of virtual currency. They will prepare a paper on the topic and would like to discuss their written views with Counsel. I would like to meet with them if you agree. [Provided, of course, i am not in the hospital bc of a medical emergency like i was at the ABAJ].

Thanks!

---

**From:** Aqui Keith A  
**Sent:** Monday, March 09, 2015 11:39 AM  
**To:** Welsh Donna J  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

FYI

---

**From:** Johnson LaTashia M  
**Sent:** Monday, March 09, 2015 11:36 AM  
**To:** Aqui Keith A  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

See below

---

**From:** staff [<mailto:staff@gazfinancial.com>]  
**Sent:** Friday, March 06, 2015 3:39 PM  
**To:** Notice Comments  
**Subject:** Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Hello,

I have been drafting a paper with respect to aspects of tax treatment of virtual currencies, specifically bitcoin. This paper is for the annual D.C. Bar Delegation in early May for the Tax Sections of the California State Bar and the Los Angeles County Bar Association (LACBA). Our meeting with the IRS is Monday, May 4 at 9 or 10AM. Is it possible to get someone at the IRS who took part in drafting Notice 2014-21 to attend?

Thank you.

*Regards,*

*Paul McCullum, J.D.*

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E | [staff@gazfinancial.com](mailto:staff@gazfinancial.com)  
W | [www.gazfinancial.com](http://www.gazfinancial.com)



**From:** [Aqui Keith A](#)  
**To:** [Shepherd Neil D](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** RE: Notice 2014-21 Virtual Currencies  
**Date:** Wednesday, March 11, 2015 1:31:00 PM

---

Will do.

---

**From:** Shepherd Neil D  
**Sent:** Wednesday, March 11, 2015 1:23 PM  
**To:** Aqui Keith A  
**Cc:** Camillo Lynne A; Shepherd Neil D  
**Subject:** Notice 2014-21 Virtual Currencies

Greetings, Keith, and thanks for the heads up. I'd like to review the referenced paper before making a commitment to attend the meeting. There's been very little controversy concerning the employment tax implications of bitcoins.

Please forward the paper when you receive it and we'll go from there.

---

**From:** Aqui Keith A  
**Sent:** Wednesday, March 11, 2015 12:25 PM  
**To:** Stahl Raymond J; Griffin Adrienne E; Shepherd Neil D; Erwin Mark E  
**Cc:** Welsh Donna J  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

IT&A plans to attend the meeting. Would you or a representative be available?  
Thanks.

---

**From:** Welsh Donna J  
**Sent:** Monday, March 09, 2015 5:48 PM  
**To:** Keyso Jr. Andrew J  
**Cc:** Montemurro Michael J; Aqui Keith A  
**Subject:** RE: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Hi Andy, The California Bar would like to have a Counsel participant meet on May 4 with them to discuss taxation of virtual currency. They will prepare a paper on the topic and would like to discuss their written views with Counsel. I would like to meet with them if you agree. [Provided, of course, i am not in the hospital bc of a medical emergency like i was at the ABAJ].

Thanks!

---

**From:** Aqui Keith A  
**Sent:** Monday, March 09, 2015 11:39 AM  
**To:** Welsh Donna J  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

FYI

---

**From:** Johnson LaTashia M  
**Sent:** Monday, March 09, 2015 11:36 AM  
**To:** Aqui Keith A  
**Subject:** FW: Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

See below

---

**From:** staff [<mailto:staff@gazfinancial.com>]  
**Sent:** Friday, March 06, 2015 3:39 PM  
**To:** Notice Comments  
**Subject:** Notice 2014-21 Virtual Currencies (bitcoin) tax treatment

Hello,

I have been drafting a paper with respect to aspects of tax treatment of virtual currencies, specifically bitcoin. This paper is for the annual D.C. Bar Delegation in early May for the Tax Sections of the California State Bar and the Los Angeles County Bar Association (LACBA). Our meeting with the IRS is Monday, May 4 at 9 or 10AM. Is it possible to get someone at the IRS who took part in drafting Notice 2014-21 to attend?

Thank you.

*Regards,*

*Paul McCullum, J.D.*

ZLO | Zbylut Law Office  
GAZ | GAZ Financial Services  
121 West Lexington Drive  
Suite 202  
Glendale, CA 91203  
P | (818) 480-3280  
F | (626) 737-9637  
E | [staff@gazfinancial.com](mailto:staff@gazfinancial.com)  
W| [www.gazfinancial.com](http://www.gazfinancial.com)

**From:** [Welsh Donna J](#)  
**To:** [Aqui Keith A](#)  
**Subject:** RE: Notice Effective date call.  
**Date:** Wednesday, February 19, 2014 5:35:33 PM

---

Hi Keith, Pls call me tomorrow at 10:30 at [REDACTED] Thx.

(b)(6)

---

**From:** Aqui Keith A  
**Sent:** Wednesday, February 19, 2014 12:37 PM  
**To:** Welsh Donna J  
**Subject:** Bitcoin FAQ

May I have a copy of the 02-14-2014 version? Thanks.

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: Notice on virtual currency  
**Date:** Friday, March 21, 2014 4:09:18 PM

---

Maybe Monday?

---

**From:** Fahey Douglas A  
**Sent:** Friday, March 21, 2014 3:55 PM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** FW: Notice on virtual currency

FYI

---

**From:** Khoury Mireille  
**Sent:** Friday, March 21, 2014 3:29 PM  
**To:** Fahey Douglas A  
**Cc:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov); Corwin Erik H; Hartford Susan L  
**Subject:** RE: Notice on virtual currency

Doug:

This is cleared for the Commissioner's office. Please pick up the package in room 3014.

Thanks,  
Mireille

---

**From:** Fahey Douglas A  
**Sent:** Thursday, March 20, 2014 5:19 PM  
**To:** Khoury Mireille  
**Cc:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Notice on virtual currency

Mireille – Erik has approved the attached notice on virtual currency for the Chief Counsel so I'm forwarding it to you for review and approval for the CIR. I will leave some hard copies for you in room 3308. Let me know if you need anything else.

**From:** [Warren Brinton T](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Aqui Keith A](#)  
**Subject:** RE: NTA Report  
**Date:** Tuesday, September 10, 2013 10:32:51 AM

---

You mean on the 7-day deadline for the factual errors? Me neither, thanks. Can you let Nicole Elliot know? Thanks

---

**From:** Welsh Donna J  
**Sent:** Monday, September 09, 2013 5:17 PM  
**To:** Warren Brinton T  
**Cc:** Aqui Keith A  
**Subject:** NTA Report

Keith and I do not have any comments on NTA's writeup on Virtual Currency.

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: NYTimes.com: Into the Bitcoin Mines  
**Date:** Thursday, January 02, 2014 3:12:15 PM

---

[Redacted]

(b)(5)

---

**From:** Fahey Douglas A  
**Sent:** Monday, December 23, 2013 10:49 AM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** FW: NYTimes.com: Into the Bitcoin Mines

FYI. Wow.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Dinwiddie Scott K  
**Sent:** Monday, December 23, 2013 10:12 AM  
**To:** Fahey Douglas A  
**Subject:** FW: NYTimes.com: Into the Bitcoin Mines

Link to Bitcoin mining article below.

**Scott K. Dinwiddie**  
Special Counsel (IT&A)  
Room 4052 CC:ITA  
202-317-4624

---

**From:** [emailthis@ms3.lga2.nytimes.com](mailto:emailthis@ms3.lga2.nytimes.com) [<mailto:emailthis@ms3.lga2.nytimes.com>]  
**Sent:** Saturday, December 21, 2013 11:19 PM  
**To:** Dinwiddie Scott K  
**Subject:** NYTimes.com: Into the Bitcoin Mines



---

**This page was sent to you by:**

[Redacted]

(b)(6)

LATEST NEWS | December 21, 2013

**DEALBOOK: Into the Bitcoin Mines**

BY NATHANIEL POPPER

In a bunker in Iceland, powerful computers are whirring 24 hours a day “  
and extracting an invisible currency.



**From:** [Berman Samuel](#)  
**To:** [Greg Zbylut \(greg@gaztaxlaw.com\)](#)  
**Cc:** [Welsh Donna J](#); [Meola Karla M](#); [Griffin Adrienne E](#); [Henkel Melissa A](#); [Stahl Raymond J](#); [Henderson Joseph S](#); [Aqui Keith A](#)  
**Subject:** RE: Participants at Meeting on May 4, 2015  
**Date:** Monday, May 04, 2015 11:12:09 AM

---

Greg,

Thanks for meeting with us to discuss the tax treatment of bitcoins, and for the paper.

Sam

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Aqui Keith A  
**Sent:** Monday, May 04, 2015 11:08 AM  
**To:** Greg Zbylut (greg@gaztaxlaw.com)  
**Cc:** Welsh Donna J; Meola Karla M; Berman Samuel; Griffin Adrienne E; Henkel Melissa A; Stahl Raymond J; Henderson Joseph S  
**Subject:** Participants at Meeting on May 4, 2015

Gregory A. Zbylut	Zbylut Law Office	
Karla Meola	CC:ITA	202. 317. 4662
Donna Welsh	CC:ITA:B04	202. 317. 4745
Keith A. Aqui	CC:ITA:B04	202. 317. 4905
Raymond Stahl	CC:LB&I	202. 317. 4917
Joseph Henderson	CC:LB&I	202. 317. 4967
Adrienne Griffin	CC:P&A	202. 317. 5155
Melissa Henkel	CC:P&A	202. 317. 5146
Samuel Berman	CC:SB/SE	240. 613. 6368



**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: POLITICO: Vitrual Currency  
**Date:** Wednesday, April 02, 2014 4:01:03 PM

---

Agreed.

-----Original Message-----

From: Fahey Douglas A  
Sent: Wednesday, April 02, 2014 2:30 PM  
To: Aqui Keith A; Welsh Donna J  
Subject: FW: POLITICO: Vitrual Currency

FYI

Doug Fahey  
202.317.4619

-----Original Message-----

From: Friedland Bruce I [<mailto:Bruce.I.Friedland@irs.gov>]  
Sent: Wednesday, April 02, 2014 2:26 PM  
To: Fahey Douglas A; Keyso Jr. Andrew J  
Cc: Eldridge Michelle L  
Subject: POLITICO: Vitrual Currency

Politico came in asking if we want to comment on a petition effort related to getting the notice changed.

I declined to comment



(b)(5)

Bruce

-----Original Message-----

From: Mackenzie Weinger [<mailto:mweinger@politico.com>]  
Sent: Wednesday, April 02, 2014 2:22 PM  
To: Friedland Bruce I  
Subject: Hi Bruce -- it's Mackenzie from Politico

Hi Bruce, just wanted to make sure you had my email & full contact info. My deadline is around 6pm today. Thanks again for all your assistance today!

Best,  
Mackenzie

--

Mackenzie Weinger, POLITICOPro  
(703) 842-1740 // (310) 980-2586  
[mweinger@politico.com](mailto:mweinger@politico.com)

**From:** [Welsh Donna J](#)  
**To:** [Moriarty John P](#)  
**Subject:** RE: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies  
**Date:** Friday, February 07, 2014 12:50:58 PM

---

Went through IRS leg affairs, who went to ITA, who then went to Treasury. So all 3 were on the 1<sup>st</sup> phone call and ITA took the lead. Andy gave intro and I explained working on guidance and had a working group in Counsel looking at the issues.

Andy and I can certainly do it again. I

---

**From:** Moriarty John P  
**Sent:** Friday, February 07, 2014 12:30 PM  
**To:** Welsh Donna J  
**Cc:** Keyso Jr. Andrew J  
**Subject:** FW: Pre-Call --Conference call with HSGA about IRS treatment of digital currencies

Who did the homeland committee reach out to when requesting this meeting?

---

**From:** Rochelle.Hodes@treasury.gov [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]  
**Sent:** Friday, February 07, 2014 12:21 PM  
**To:** Welsh Donna J  
**Cc:** Fahey Douglas A; Arterton Cameron; Faiza.Khan@treasury.gov; Shepherd Sara P; Ahmed.Bhadelia@treasury.gov; Keyso Jr. Andrew J; Moriarty John P  
**Subject:** Pre-Call --Conference call with HSGA about IRS treatment of digital currencies

Hello all. We didn't settle who was going to lead the call on Monday. I'd like to suggest that Andy do that.

Andy, given that you weren't on the pre-call, it would be great if we could talk briefly before on Monday (before 10:30) or anytime today (I realize you are out of the office, but thought you might check bb). My number is below.

(b)(5)

Please let me know if anyone has any other questions.

**Rochelle Hodes**  
Office of Tax Policy  
Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, D.C. 20220  
Phone 202.622.1787  
[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#); [Keyso Jr. Andrew J](#)  
**Subject:** RE: Press materials  
**Date:** Monday, March 24, 2014 9:57:18 AM

---

Only one more day!

---

**From:** Fahey Douglas A  
**Sent:** Monday, March 24, 2014 9:37 AM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** FW: Press materials

FYI

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Sunday, March 23, 2014 6:42 PM  
**To:** Keyso Jr. Andrew J; Fahey Douglas A  
**Subject:** Re: Press materials

I will get the approval doc to you in am. Looking to release Tues afternoon.

---

**From:** Keyso Jr. Andrew J [<mailto:Andrew.J.KeysoJr@irscounsel.treas.gov>]  
**Sent:** Friday, March 21, 2014 05:49 PM  
**To:** Hodes, Rochelle; Fahey, Douglas A  
**Subject:** RE: Press materials

We're waiting for formal approval from you, but we're also anticipating that this is not going out tonight, right? I'm assuming Monday morning is the new target for release of everything?

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Friday, March 21, 2014 5:48 PM  
**To:** Fahey Douglas A  
**Cc:** Keyso Jr. Andrew J  
**Subject:** Re: Press materials

Thanks. The awkward sentence is lifted directly from the notice. The question on the talkers is really for commkr side to answer I guess.

ThankS.

So, are you waiting for formal approval for us on the notice?

---

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irscounsel.treas.gov>]  
**Sent:** Friday, March 21, 2014 05:37 PM  
**To:** Hodes, Rochelle

**Cc:** Keyso Jr., Andrew J  
**Subject:** RE: Press materials

The news release looks okay to me, except I think

(b)(5)

(b)(5)

The roll out is out of scope for us.

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]

**Sent:** Friday, March 21, 2014 4:59 PM

**To:** Fahey Douglas A; Keyso Jr. Andrew J

**Subject:** Press materials

Doug/Andy—attached are press materials that we marked up (these are clean versions (except for the edit in the IR from our PA person based on anticipated reporter questions) because the changes were quite extensive) and that our Public Affairs folks are planning to send to their front office. Please make sure that Counsel is ok with these. I believe that our Public Affairs folks will be coordinating with IRS Public Affairs folks, but not sure.

**Rochelle Hodes**

Office of Tax Policy

Department of the Treasury

1500 Pennsylvania Ave., NW

Washington, D.C. 20220

Phone 202.622.1787

[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** RE: Public Comments (Notice 2014-21).zip  
**Date:** Wednesday, March 26, 2014 5:09:00 PM

---

Done, by phone. Thanks.

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, March 26, 2014 5:03 PM  
**To:** Aqui Keith A  
**Cc:** Welsh Donna J  
**Subject:** RE: Public Comments (Notice 2014-21).zip

Since she's asking about what's in the notice, I think that's fine. Maybe by phone though.

**Doug Fahey**

**202.317.4619**

---

**From:** Aqui Keith A  
**Sent:** Wednesday, March 26, 2014 4:54 PM  
**To:** Fahey Douglas A  
**Cc:** Welsh Donna J  
**Subject:** RE: Public Comments (Notice 2014-21).zip

Do you think we should respond to the comment on the effective date of the Notice?  
Thanks.

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, March 26, 2014 4:35 PM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** RE: Public Comments (Notice 2014-21).zip

Some of these are very interesting. By the way, I don't think we need to respond to these, not at this point anyway.

**Doug Fahey**

**202.317.4619**

---

**From:** Aqui Keith A  
**Sent:** Wednesday, March 26, 2014 10:41 AM  
**To:** Fahey Douglas A; Welsh Donna J  
**Subject:** FW: Public Comments (Notice 2014-21).zip

FYI.

---

**From:** Johnson Regina L  
**Sent:** Wednesday, March 26, 2014 9:45 AM  
**To:** Aqui Keith A  
**Cc:** Franks Martin  
**Subject:** Public Comments (Notice 2014-21).zip

<< File: Public Comments (Notice 2014-21).zip >>

**Regina L. Johnson**

**Legal Assistant**

**CC:PA:LPD:PR**

**Room 5207**

**202-317-5177**

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: Question from IRS Employee  
**Date:** Tuesday, April 01, 2014 5:14:53 PM

---

Good on power. Left her vms and she did not return call. I shall refer her to Alexa Dulbert in FIP if she wants to talk to someone there.

-----Original Message-----

From: Fahey Douglas A  
Sent: Tuesday, April 01, 2014 4:07  
To: Welsh Donna J; Aqui Keith A  
Subject: RE: Question from IRS Employee

That might be sufficient. Not sure what she means by a financial instrument. If necessary, call in INTL or maybe FIP.

Working at home and the power just came back on. PEPCO is doing some work in the hood.

Doug Fahey  
202.317.4619

-----Original Message-----

From: Welsh Donna J  
Sent: Tuesday, April 01, 2014 12:25 PM  
To: Aqui Keith A; Fahey Douglas A  
Subject: RE: Question from IRS Employee

[REDACTED]

(b)(5)

-----Original Message-----

From: Aqui Keith A  
Sent: Tuesday, April 01, 2014 11:56 AM  
To: Fahey Douglas A; Welsh Donna J  
Subject: Question from IRS Employee

She is based at the US Embassy in London and queries whether Bitcoin is treated as a financial instrument. Should I refer her to INTL? Thanks.

**From:** [Welsh Donna J](#)  
**To:** [Ronk Alice L](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: Question re PCA from GAO-13-516 Virtual Economies  
**Date:** Wednesday, November 13, 2013 4:50:17 PM  
**Attachments:** [FAOREVISED 11-13-13 \(3\).docx](#)

---

Hi Everyone, Something was wrong with the spacing in the previous document, so here is a revised document that is easier to read.

---

**From:** Welsh Donna J  
**Sent:** Wednesday, November 13, 2013 3:41 PM  
**To:** Ronk Alice L  
**Cc:** Keyso Jr. Andrew J; Fahey Douglas A; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Question re PCA from GAO-13-516 Virtual Economies

Hi Alice, We just briefed Erik Corwin today on this draft of the FAQs. So here is Counsel's draft as we committed to complete by 11/15.

I will be sending Treasury this draft today as well.

--Donna

---

**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Wednesday, November 13, 2013 2:37 PM  
**To:** Welsh Donna J  
**Cc:** Ronk Alice L  
**Subject:** FW: Question re PCA from GAO-13-516 Virtual Economies  
**Importance:** High

Hi Donna,

Hope you're well. As you know, counsel originally committed to complete its portion of the FAQs by October 15. Due to the furlough, Counsel committed to completion of its part by November 15. When you have a chance, please let me know the status of Chief Counsel's work. As you know, apparently Treasury needs to review this. I am not at all comfortable that Treasury will move this timely. (I understand that this is not the highest priority, but as it is supposed to be links to existing publishing guidance and not breaking new ground, I still think it should be possible to review this quickly—but I know you in Chief Counsel have no control over Treasury.) And we discussed when preparing the response to the GAO report and discussing our completion date for the GAO corrective item, we need a few months for logistical work (making it compliant with all accessibility rules, etc.) on the back end. So if we need to get an extension, we need to do it ASAP. And we need to explicitly state why, i.e., Treasury will not/cannot commit to completing by March 1, or etc. Sorry to harass you, but every month I not only need to report to my Director but also to GAO. (They harass me! J) So, I continue to report that ATTI drafted questions and submitted them to Chief Counsel on July 15 and are awaiting Counsel to complete its review.

Thanks! And I do appreciate your help.

-Alice

---



**From:** Cavanaugh Kimberly A  
**Sent:** Wednesday, November 13, 2013 2:05 PM  
**To:** Ronk Alice L  
**Cc:** Koon Jodi L; Flack Rosemary; Cavanaugh Kimberly A  
**Subject:** FW: Question re PCA from GAO-13-516 Virtual Economies  
**Importance:** High

Hi Alice,

Legislative Affairs is requesting information on the PCA that came out of GAO 451007. Please respond to questions from Joel Rustein below.

This PCA is due 6/15/2014.

*Kim Cavanaugh*

Program Analyst  
SBSE Exam HQ Operations Support  
Budget & Planning  
Desk 860.571.4517

---

**From:** Smith Molly M  
**Sent:** Wednesday, November 13, 2013 1:43 PM  
**To:** Kalbacher Michele; Cavanaugh Kimberly A  
**Subject:** FW: Question re PCA from GAO-13-516 Virtual Economies  
**Importance:** High

Hi Kim,

Can you please help me to respond to Joel's inquiry, below?

Michele, I know you're having continuing computer problems, so I went directly to Kim.

Molly

---

**From:** Rutstein Joel S  
**Sent:** Wednesday, November 13, 2013 12:31 PM  
**To:** Smith Molly M  
**Cc:** Amato Amy; Landes Scott S; patrick.o'brien@fincen.gov  
**Subject:** FW: Question

Molly, in the 60-day letters following GAO's final report on virtual currencies, we estimated June 14, 2014 as the completion date for the corrective action to provide information to taxpayers. The Director, Abusive Transactions and Technical Issues (ATAT) is listed as the responsible official. Can you please share with us the status of the corrective action as well as confirm that IRS has not yet issued any guidance? Thanks, Joel

*Joel S. Rutstein, Esq.*

Program Manager, GAO/TIGTA Audits  
Legislation and Reports Branch  
Office of Legislative Affairs

(202) 622-4133  
(202) 622-5247 (fax)  
Email: [joel.s.rutstein@irs.gov](mailto:joel.s.rutstein@irs.gov)  
Web: <http://irweb.irs.gov/AboutIRS/bu/cl/la/lagt/default.aspx>

---

**From:** O'Brien, Patrick [mailto:Patrick.O'Brien@fincen.gov]  
**Sent:** Wednesday, November 13, 2013 12:00 PM  
**To:** Amato Amy  
**Subject:** Question

Amy-

I hope you're well. I have a question for you. We're testifying at a couple of Senate hearings on virtual currency next week. My sense is we're likely to get some sort of question regarding the GAO's recent audit on tax implications in this space. I'm advising our witness to largely defer on tax-related questions, but for our internal awareness, do you know if the IRS has put out any additional guidance on virtual currencies subsequent to the report's recommendation? I see your management response says you intend to, but no timeframe is given. Thanks for any insight you can provide.

Patrick

Patrick O'Brien  
Congressional Liaison, FinCEN  
Department of the Treasury  
202-354-6037  
[patrick.obrien@fincen.gov](mailto:patrick.obrien@fincen.gov)

**From:** [Welsh Donna J](#)  
**To:** [Moriarty John P](#)  
**Subject:** RE: Release of formerly restricted product: GAO-13-516, Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks, 451007  
**Date:** Friday, February 07, 2014 12:51:14 PM

---

Sure.

---

**From:** Moriarty John P  
**Sent:** Friday, February 07, 2014 11:28 AM  
**To:** Welsh Donna J  
**Subject:** RE: Release of formerly restricted product: GAO-13-516, Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks, 451007

Thanks, Donna.

---

**From:** Welsh Donna J  
**Sent:** Friday, February 07, 2014 11:21 AM  
**To:** Moriarty John P  
**Subject:** FW: Release of formerly restricted product: GAO-13-516, Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks, 451007

Hi John, Here is the GAO Report. The Techmis info is "Guidance on Transactions Involving Virtual Currencies." PUBWE-131431-13.

---

**From:** Fahey Douglas A  
**Sent:** Monday, June 17, 2013 10:24 AM  
**To:** Baumgarten Peter J; Welsh Donna J  
**Subject:** FW: Release of formerly restricted product: GAO-13-516, Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks, 451007

FYI

Doug Fahey  
202.622.7883

---

**From:** Goldstein Richard S  
**Sent:** Monday, June 17, 2013 10:16 AM  
**To:** Fahey Douglas A  
**Subject:** FW: Release of formerly restricted product: GAO-13-516, Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks, 451007

---

**From:** Rutstein Joel S [<mailto:Joel.S.Rutstein@irs.gov>]  
**Sent:** Monday, June 17, 2013 9:55 AM  
**To:** Goldstein Richard S  
**Subject:** FW: Release of formerly restricted product: GAO-13-516, Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks, 451007

Richard, FYI. Joel

*Joel S. Rutstein, Esq.*

Program Manager, GAO/TIGTA Audits

Legislation and Reports Branch

Office of Legislative Affairs

(202) 622-4133

(202) 622-5247 (fax)

Email: [joel.s.rutstein@irs.gov](mailto:joel.s.rutstein@irs.gov)

Web: <http://irweb.irs.gov/AboutIRS/bu/cl/la/lagt/default.aspx>

---

**From:** GAO Reports [<mailto:GAOReports@gao.gov>]

**Sent:** Monday, June 17, 2013 9:43 AM

**To:** Rutstein Joel S

**Cc:** [ArkinJ@gao.gov](mailto:ArkinJ@gao.gov)

**Subject:** Release of formerly restricted product: GAO-13-516, Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks, 451007

GAO will release the following previously restricted product to the public today. Until then, use the secure link below to access the product.

GAO-13-516

**Virtual Economies and Currencies: Additional IRS Guidance Could Reduce Tax Compliance Risks**



(b)(5)

This report contains recommendations to your agency. As you know, 31 U.S.C. 720 requires the head of a federal agency to submit a written statement of the actions taken on our recommendations to the Senate Committee on Homeland Security and Governmental Affairs and to the House Committee on Oversight and Government Reform not later than 60 calendar days from the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 calendar days after that date. Since the congressional requester has asked that the distribution of the report be restricted, as provided by GAO's Congressional Protocols, the 60-day period begins on the date the report is released and e-mailed to you. Because agency personnel serve as the primary source of information on the status of recommendations, GAO requests that you also provide GAO with a copy of your agency's statement of action to serve as preliminary information on the status of open recommendations. Please send your statement of action to ARKIN, JEFFREY L ([arkinj@gao.gov](mailto:arkinj@gao.gov)) or to me at ([whitej@gao.gov](mailto:whitej@gao.gov)).

We appreciate the assistance and cooperation of your staff during our review.

**James R. White**

**Director, Government Accountability Office: Strategic Issues**

After public release later today, the following link should be used to obtain the product.

<http://www.gao.gov/products/GAO-13-516>

**From:** [Fahey Douglas A](#)  
**To:** [Berman Samuel](#); [Welsh Donna J](#)  
**Cc:** [Aqui Keith A](#); [Welsh Donna J](#); [Ronk Alice L](#); [Ronk Alice L](#)  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13  
**Date:** Monday, July 29, 2013 1:56:00 PM

---

I'll bring it to OTP's attention.

Doug Fahey  
202.622.7883

---

**From:** Berman Samuel  
**Sent:** Monday, July 29, 2013 1:54 PM  
**To:** Welsh Donna J  
**Cc:** Fahey Douglas A; Aqui Keith A; Welsh Donna J; Ronk Alice L; Ronk Alice L  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Donna,

I don't think SB/SE would ordinarily contact OTP directly. Does IT&A have an Office of Tax Policy contact?

I can coordinate with FinCEN Counsel or Alice can refer the draft to the SB/SE-FinCEN Liaison (Rod Lundquist), but I think coordinating with FinCEN can wait until we have the draft answers. The answers will either refer to FinCEN's existing guidance or refer answers to FinCEN.

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Monday, July 29, 2013 1:47 PM  
**To:** Welsh Donna J  
**Cc:** Berman Samuel; Fahey Douglas A; Aqui Keith A; Welsh Donna J; Ronk Alice L  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

I don't think we have raised with Treasury. I guess I had thought that [REDACTED]

[REDACTED]  
[REDACTED] But I think you're correct. Does Counsel contact Treasury or should someone from the Commissioner's side?

(b)(5)

(b)(5)

(b)(5)

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irscounsel.treas.gov>]  
**Sent:** Monday, July 29, 2013 1:44 PM  
**To:** Ronk Alice L  
**Cc:** Berman Samuel; Fahey Douglas A; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Hi Alice, Has any one raised this project to Treasury, Office of Tax Policy? I am sure that they will

have some thoughts on the the scope and propriety of this project. They are often involved in IRS informal guidance where Counsel is involved, and FINCEN has issued guidance on whether a Bitcoin Exchange is a Money Service Business. I think we should bring them into the loop early on.

---

**From:** Ronk Alice L [mailto:Alice.L.Ronk@irs.gov]  
**Sent:** Monday, July 29, 2013 12:07 PM  
**To:** Berman Samuel  
**Cc:** Nearing Phoebe L; Moe Debra K; Welsh Donna J  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

thanks! I really appreciate everyone's hard work.

---

**From:** Berman Samuel [mailto:Samuel.Berman@irscounsel.treas.gov]  
**Sent:** Monday, July 29, 2013 11:53 AM  
**To:** Ronk Alice L  
**Cc:** Nearing Phoebe L; Moe Debra K; Welsh Donna J  
**Subject:** FW: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Alice,

I was on a conference call with Donna and others from Chief Counsel to discuss the informal guidance on virtual currencies. At this point we expect to have a draft product ready for circulation by the end of August with a final product about a month later. The time frame previously agreed to (Oct. 15) is still good.

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Ronk Alice L [mailto:Alice.L.Ronk@irs.gov]  
**Sent:** Wednesday, July 17, 2013 10:14 AM  
**To:** Berman Samuel; Welsh Donna J  
**Cc:** Harvin Betty A; Wilson Brenda D (NO); Baumgarten Peter J; Pinsky Ronald D; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L; TSS4510; Ronk Alice L  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Hi all,

My understanding is that this request is to answer the questions prepared by Eric Larsen. Those questions were drafted in response to a GAO report and corrective action. The corrective action specifically states:

(b)(5)

(b)(5)

(b)(5)

(Emphasis added.) On July 1, I sent out an action plan. to everyone involved. It stated that ATTI (Eric Larsen) would draft questions to provide the basis of the FAQs and that we would provide this material to Counsel by August 15 for its completion and approval and that counsel would have 2

months to complete its task. I received an email from ITA stating that it "looked like a workable plan" and that while counsel had some concerns with a 2 month time-frame that as long as there was some flexibility, it would be fine. We have used this action plan as the basis for the date we included in our GAO response the time we will complete this corrective action. As this material is supposed to be based on existing published guidance and should not require any new published guidance, I had understood that this process should be fairly straightforward. As we have given the questionsto counsel 1 month earlier than stated in the action plan (i.e. July 15 instead of August 15), I am hopeful that Counsel can complete its answers and approval by October 15. **If not, I will need to know as soon as possible, so we can update the corrective action, if possible. (This is difficult to do, but is better than not meeting the date.)** While the completion date is not 10/15, we need counsel to complete its piece on schedule so we have time to make any material compliant with requirements to be posted on IRWeb and to close out the action item. Thanks.

Thanks for your help!

-Alice

---

**From:** Berman Samuel [<mailto:Samuel.Berman@irscounsel.treas.gov>]  
**Sent:** Tuesday, July 16, 2013 3:22 PM  
**To:** Welsh Donna J  
**Cc:** Harvin Betty A; Wilson Brenda D (NO); Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L; TSS4510  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Donna,

Thanks for your help. Can you give an estimate of the time frame for responding?

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Welsh Donna J  
**Sent:** Tuesday, July 16, 2013 3:11 PM  
**To:** TSS4510; Berman Samuel  
**Cc:** Harvin Betty A; Wilson Brenda D (NO); Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

This should not have a due date; it may take awhile before the informal guidance is issued.

---

**From:** TSS4510  
**Sent:** Tuesday, July 16, 2013 2:49 PM  
**To:** Berman Samuel  
**Cc:** Welsh Donna J; Harvin Betty A; Wilson Brenda D (NO); Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L; TSS4510  
**Subject:** FW: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13



I have assigned this as a Published Guidance project to CC:ITA. The case number is **PUBWE-131431-13**. Please advise of CASE-MIS any due date.

**This assignment is being uploaded to the ITA Share Point website.**

Kelly D. Bell

Management Analyst

CC:PA:LPD:TSS | Procedure and Administration

Technical Support Services Branch | TSS4510

(202) 622-0392 (Office)

Please send requests for National Office Assignments to TSS4510.

Thank you!

---

**From:** Berman Samuel

**Sent:** Tuesday, July 16, 2013 12:03 PM

**To:** TSS4510

**Cc:** Welsh Donna J; Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L

**Subject:** Request for Guidance on Transactions Involving Virtual Currencies

Please assign to Income Tax and Accounting as the primary office, with assistance to be provided, as needed, by Procedure and Administration, International and Financial Institutions and Products.

This is a request for assistance in drafting informal guidance, based on existing guidance, on transactions involving virtual currencies. Initially, the guidance is likely to be in the form of a posting of a series of questions and answers on irs.gov. Attached is a list of questions with respect to virtual currency transactions. We request assistance in drafting answers to these questions that would be helpful to average taxpayers in understanding their tax reporting obligations with respect to such transactions. References to existing publications and published guidance would be helpful. The goal is to provide general guidance that would meet the needs of most taxpayers who engage in virtual currency transactions, especially when they exchange virtual currencies for cash or for goods or services. Please inform us if any of the questions cannot be answered based on current guidance.

Samuel Berman

Acting Associate Area Counsel

Washington (Group 2)

(Small Business/Self-Employed)

---

**From:** Larsen Eric R [<mailto:eric.larsen@irs.gov>]

**Sent:** Monday, July 15, 2013 9:06 AM

**To:** Ronk Alice L

**Cc:** Berman Samuel; Powell-Stringer Portia E; Taylor James E

**Subject:** Development of examples for IRS.gov in response to GAO audit

Hi Alice,

Attached are the questions/examples that I came up with that I believe cover the issues raised by the GAO and by the Taxpayer Advocate. The questions are framed as questions from taxpayers that cover the areas of guidance from the perspective of taxpayers that accept bitcoins as payment, speculators, a bitcoin mining business, and bitcoin exchanges. Also, for game currencies from the perspective

of the online gamer and the operator of the virtual world.

I used "bitcoins" or "litecoins" in the many of the questions that will be later used as examples. Those specific VCs can be readily changed to another term or to "virtual currency" later on.

I put down suggested answers on several of the questions, but ended

[REDACTED] left the suggested answer in for question #5, because I thought this was fairly straightforward and more of a general small business question than a bitcoin question.

I am in all today and the rest of the week.

Eric

(b)(5)

(b)(5)

**From:** [Ronk Alice L](#)  
**To:** [Welsh Donna J](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Cook Janine](#); [Berman Samuel](#); [Aqui Keith A](#); [Welsh Donna J](#); [Ronk Alice L](#)  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13  
**Date:** Thursday, October 24, 2013 10:17:57 AM

---

Okay. I appreciate the quick response.

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irs.counsel.treas.gov>]  
**Sent:** Thursday, October 24, 2013 9:50 AM  
**To:** Ronk Alice L  
**Cc:** Keyso Jr. Andrew J; Cook Janine; Berman Samuel; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Hi Alice, the Associate Offices are just about finished with the FAQs. Once the FAQs are final, we need to brief the CC on them before sharing them with your office. Since I don't know how hard it is to get on the CC schedule, to be safe I would say 11/15. Then there is the whole other layer of Treasury review after that. Treasury is aware of the FAQs but Counsel should have them in good shape before they review.

Thanks!  
Donne

---

**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Thursday, October 24, 2013 9:08 AM  
**To:** Welsh Donna J  
**Cc:** Ronk Alice L  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Hi Donna,  
I'm assuming with the shut down that the original timeframe (10/15) for Counsel's completion of the FAQs has been pushed back. Can we expect it by November 5 (i.e. three weeks later)? I need to provide an update to my Director. Thanks!  
-Alice

---

**From:** Welsh Donna J [<mailto:Donna.J.Welsh@irs.counsel.treas.gov>]  
**Sent:** Monday, July 29, 2013 3:53 PM  
**To:** Ronk Alice L  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

you bet.

---

**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Monday, July 29, 2013 12:07 PM  
**To:** Berman Samuel  
**Cc:** Nearing Phoebe L; Moe Debra K; Welsh Donna J  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

thanks! I really appreciate everyone's hard work.

---

**From:** Berman Samuel [mailto:Samuel.Berman@irs.counsel.treas.gov]  
**Sent:** Monday, July 29, 2013 11:53 AM  
**To:** Ronk Alice L  
**Cc:** Nearing Phoebe L; Moe Debra K; Welsh Donna J  
**Subject:** FW: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Alice,

I was on a conference call with Donna and others from Chief Counsel to discuss the informal guidance on virtual currencies. At this point we expect to have a draft product ready for circulation by the end of August with a final product about a month later. The time frame previously agreed to (Oct. 15) is still good.

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Ronk Alice L [mailto:Alice.L.Ronk@irs.gov]  
**Sent:** Wednesday, July 17, 2013 10:14 AM  
**To:** Berman Samuel; Welsh Donna J  
**Cc:** Harvin Betty A; Wilson Brenda D (NO); Baumgarten Peter J; Pinsky Ronald D; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L; TSS4510; Ronk Alice L  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Hi all,

My understanding is that this request is to answer the questions prepared by Eric Larsen. Those questions were drafted in response to a GAO report and corrective action. The corrective action specifically states:

(b)(5)

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(b)(5)

(Emphasis added.) On July 1, I sent out an action plan to everyone involved. It stated that ATTI (Eric Larsen) would draft questions to provide the basis of the FAQs and that we would provide this material to Counsel by August 15 for its completion and approval and that counsel would have 2 months to complete its task. I received an email from ITA stating that it "looked like a workable plan" and that while counsel had some concerns with a 2 month time-frame that as long as there was some flexibility, it would be fine. We have used this action plan as the basis for the date we included in our GAO response the time we will complete this corrective action. As this material is supposed to be based on existing published guidance and should not require any new published guidance, I had understood that this process should be fairly straightforward. As we have given the questions to counsel 1 month earlier than stated in the action plan (i.e. July 15 instead of August 15), I am hopeful that Counsel can complete its answers and approval by October 15. **If not, I will need to know as soon as possible, so we can update the corrective action, if possible. (This is difficult to do, but is better than not meeting the date.)** While the completion date is not 10/15, we need counsel to

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Thanks for your help!  
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---

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**Cc:** Harvin Betty A; Wilson Brenda D (NO); Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L; TSS4510  
**Subject:** RE: Request for Guidance on Transactions Involving Virtual Currencies -- PUBWE-131431-13

Donna,

Thanks for your help. Can you give an estimate of the time frame for responding?

Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

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I have assigned this as a Published Guidance project to CC:ITA. The case number is **PUBWE-131431-13**. Please advise of CASE-MIS any due date.

**This assignment is being uploaded to the ITA Share Point website.**

Kelly D. Bell  
Management Analyst  
CC:PA:LPD:TSS | Procedure and Administration  
Technical Support Services Branch | TSS4510  
(202) 622-0392 (Office)  
Please send requests for National Office Assignments to [TSS4510](#).  
Thank you!

---

**From:** Berman Samuel  
**Sent:** Tuesday, July 16, 2013 12:03 PM  
**To:** TSS4510  
**Cc:** Welsh Donna J; Baumgarten Peter J; Pinsky Ronald D; Ronk Alice L; Larsen Eric R; Cottrell Mark E; Nearing Phoebe L  
**Subject:** Request for Guidance on Transactions Involving Virtual Currencies

Please assign to Income Tax and Accounting as the primary office, with assistance to be provided, as needed, by Procedure and Administration, International and Financial Institutions and Products.

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Samuel Berman  
Acting Associate Area Counsel  
Washington (Group 2)  
(Small Business/Self-Employed)

---

**From:** Larsen Eric R [<mailto:eric.larsen@irs.gov>]  
**Sent:** Monday, July 15, 2013 9:06 AM  
**To:** Ronk Alice L  
**Cc:** Berman Samuel; Powell-Stringer Portia E; Taylor James E  
**Subject:** Development of examples for IRS.gov in response to GAO audit

Hi Alice,

Attached are the questions/examples that I came up with that I believe cover the issues raised by the GAO and by the Taxpayer Advocate. The questions are framed as questions from taxpayers that cover the areas of guidance from the perspective of taxpayers that accept bitcoins as payment, speculators, a bitcoin mining business, and bitcoin exchanges. Also, for game game currencies from the perspective of the online gamer and the operator of the virtual world.

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I put down suggested answers on several of the questions, but ended up

(b)(5)

(b)(5)

(b)(5)

I am in all today and the rest of the week.

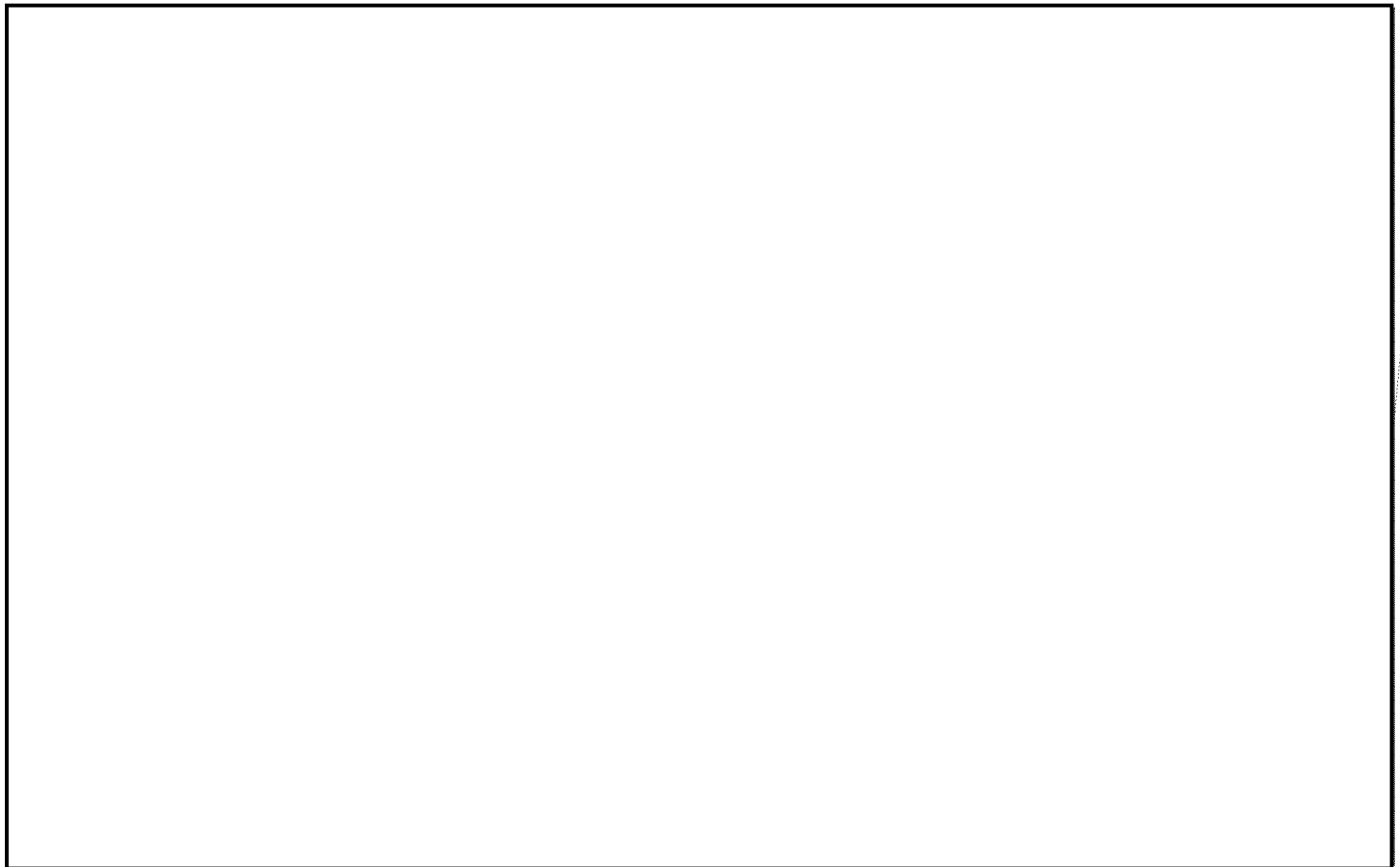
Eric

**From:** [Warren Brinton T](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Cc:** [Warren Brinton T](#)  
**Subject:** RE: Revised FAQ's  
**Date:** Thursday, September 26, 2013 3:44:00 PM

---

Here's my shot at an intro—please feel free to edit...

## INTRODUCTION



(b)(5)

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**From:** Welsh Donna J  
**Sent:** Thursday, September 26, 2013 3:00 PM  
**To:** Aqui Keith A; Warren Brinton T  
**Cc:** Welsh Donna J  
**Subject:** RE: Revised FAQ's

<< File: Virtual Currency QA 0926CLEANdjwt.doc >>



This

(b)(5)

issue will need to be briefed to 3<sup>rd</sup> floor.

---

**From:** Aqui Keith A  
**Sent:** Thursday, September 26, 2013 12:01 PM  
**To:** Welsh Donna J; Warren Brinton T  
**Cc:** Aqui Keith A

**Subject:** Revised FAQ's

Please find attached copies of the FAQ's with suggestions incorporated. I have also included a "clean" copy to facilitate Warren's creation of the Introduction.

<< File: Virtual Currency QA 0926CLEAN.doc >> << File: Virtual Currency QA  
0926COMBINED.doc >>



**From:** [Warren Brinton T](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** RE: Revised FAQ's  
**Date:** Friday, September 27, 2013 1:52:00 PM

---

Please do so, and have a great weekend!

---

**From:** Welsh Donna J  
**Sent:** Friday, September 27, 2013 1:42 PM  
**To:** Warren Brinton T; Aqui Keith A  
**Subject:** RE: Revised FAQ's

Thanks Brinton. I think I'll add there example as they revise back in. [REDACTED] (b)(5)

[REDACTED] Is it ok to add back in and send my revisions to  
working group? (b)(5)

---

**From:** Warren Brinton T  
**Sent:** Friday, September 27, 2013 1:33 PM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** RE: Revised FAQ's

I am fine with all of this going forward, but I don't know what to tell you [REDACTED] (b)(5)

[REDACTED] (b)(5)  
[REDACTED] No need to discuss (b)(5)

from my vantage point, let me know what I can do, thanks

---

**From:** Welsh Donna J  
**Sent:** Friday, September 27, 2013 11:25 AM  
**To:** Aqui Keith A; Warren Brinton T  
**Cc:** Welsh Donna J  
**Subject:** RE: Revised FAQ's

<< File: Virtual Currency QA 0927djw.doc >>

Hi Brinton. Revised intro a bit. [REDACTED] (b)(5)

[REDACTED] So, maybe their version is ok? I am  
working at home today, but will be in Monday or you may call me at [REDACTED] Thx. (b)(5)  
(b)(6)

---

**From:** Welsh Donna J  
**Sent:** Thursday, September 26, 2013 3:00 PM  
**To:** Aqui Keith A; Warren Brinton T  
**Cc:** Welsh Donna J  
**Subject:** RE: Revised FAQ's

<< File: Virtual Currency QA 0926CLEANdjw.doc >>

[REDACTED]

This

(b)(5)

issue will need to be briefed to 3<sup>rd</sup> floor.

---

**From:** Aqui Keith A

**Sent:** Thursday, September 26, 2013 12:01 PM

**To:** Welsh Donna J; Warren Brinton T

**Cc:** Aqui Keith A

**Subject:** Revised FAQ's

Please find attached copies of the FAQ's with suggestions incorporated. I have also included a "clean" copy to facilitate Warren's creation of the Introduction.

<< File: Virtual Currency QA 0926CLEAN.doc >> << File: Virtual Currency QA 0926COMBINED.doc >>

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** RE: Revised news release, "talkers"  
**Date:** Wednesday, March 19, 2014 3:58:29 PM

---

Haven't heard a peep from Treasury since last Friday.

---

**From:** Welsh Donna J  
**Sent:** Wednesday, March 19, 2014 3:56 PM  
**To:** Fahey Douglas A; Aqui Keith A  
**Subject:** RE: Revised news release, "talkers"

Hi Doug, These look fine and reflect most recent draft.

I may be reached at home  in the next days until next Thur.

(b)(6)

Any word on when the Notice will be released?

---

**From:** Fahey Douglas A  
**Sent:** Wednesday, March 19, 2014 3:50 PM  
**To:** Aqui Keith A; Welsh Donna J  
**Subject:** Revised news release, "talkers"

I made revisions based on the latest draft. Let me know of any needed changes, etc.

**From:** [Fahey Douglas A](#)  
**To:** [Corwin Erik H](#)  
**Cc:** [Milnes-Vasquez Marie C](#); [Keyso Jr. Andrew J](#); [Moriarty John P](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** RE: Revised virtual currency draft  
**Date:** Thursday, March 13, 2014 5:20:51 PM  
**Attachments:** [Bitcoin Notice 3-13-14 CC 5PM.docx](#)

---

One minor edit. Emily apparently does not want to make the change to [REDACTED]

(b)(5)

[REDACTED] The branch will confirm with their front office if it is okay to leave as is. Probably will be.

(b)(5)

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Fahey Douglas A  
**Sent:** Thursday, March 13, 2014 5:01 PM  
**To:** Corwin Erik H  
**Cc:** Milnes-Vasquez Marie C; Keyso Jr. Andrew J; Moriarty John P; Aqui Keith A; Welsh Donna J  
**Subject:** Revised virtual currency draft

Here's revised draft with the edits we discussed earlier.

<< File: Bitcoin Notice 3-13-14 CC.docx >>

Doug Fahey  
**NEW PHONE 202-317-4619**

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** RE: Taxing Virtual Currencies: IRS Review Has Big Implications For Investors In Virtual Currency  
**Date:** Thursday, January 09, 2014 9:58:11 AM

---

Okay then, we expect you to keep them in line.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Welsh Donna J  
**Sent:** Thursday, January 09, 2014 9:55 AM  
**To:** Fahey Douglas A; Aqui Keith A  
**Subject:** RE: Taxing Virtual Currencies: IRS Review Has Big Implications For Investors In Virtual Currency

An International LB&I team, and i am on it. Awesome!

---

**From:** Fahey Douglas A  
**Sent:** Thursday, January 09, 2014 9:47 AM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** RE: Taxing Virtual Currencies: IRS Review Has Big Implications For Investors In Virtual Currency

A virtual currency issue team. Swell.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Welsh Donna J  
**Sent:** Wednesday, January 08, 2014 4:55 PM  
**To:** Fahey Douglas A; Aqui Keith A  
**Subject:** FW: Taxing Virtual Currencies: IRS Review Has Big Implications For Investors In Virtual Currency

Fyi...

---

**From:** Edelman Edward M [<mailto:Edward.M.Edelman@irs.gov>]  
**Sent:** Wednesday, January 08, 2014 4:42 PM  
**To:** Utzke David J; Kiger Cheryl R  
**Cc:** Stone Christine; Karavitis Roula; Nicholls Lori J; Peraza Lilia R; Huang Jeff J; Bray Patricia A; Skutley Michael R; Welsh Donna J; Driscoll Robert G; Schenck Carolyn A; Eblen Mark D; Carter Kareem A; Choi Eunice  
**Subject:** RE: Taxing Virtual Currencies: IRS Review Has Big Implications For Investors In Virtual Currency

David,

Thanks for the info. Exactly the questions we within the IRS (or at least on the OA IPN) are raising. [REDACTED]

(b)(5)

(b)(5)

I have included everyone on the OA IPN Virtual Currency Issue Team in this response so they can read the Forbes Article highlights you included below in preparation for and as a reminder of our Virtual Currency Issue Team's first call on Wednesday, January 15, 2014 at 8:00 A.M. Pacific Time (11:00 A.M. Eastern; 10:00 Central).

Call-In #  Access Code:

**Eddie Edelman**

Technical Specialist

LB & I International Individual Compliance

6230 Van Nuys Blvd., 1st Floor

Van Nuys, California 91401-2780

Office (Desk): 818-779-3646

Cell: 818-261-0865

[IIC Offshore Arrangements IPN](#)

[IIC Jurisdiction To Tax-Outbound IPN](#)

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**From:** Utzke David J

**Sent:** Wednesday, January 08, 2014 1:09 PM

**To:** Kiger Cheryl R

**Cc:** Edelman Edward M; Stone Christine

**Subject:** Taxing Virtual Currencies: IRS Review Has Big Implications For Investors In Virtual Currency

Following are excerpts from a *Forbes* article published yesterday regarding the vacuum of tax guidance being provided by the IRS on the treatment of virtual currency. The article does not disclose who its IRS source is; however, following is a quote from an article I found by a journalist named Laura Saunders with *Barrons* providing a quote from an IRS spokesperson on 12.20.2013, which parallels this *Forbes* article:

So far, the Internal Revenue Service hasn't ruled on or addressed such issues directly. An agency spokesman released the following statement: "The IRS continues to study virtual currencies and intends to provide some guidance on the tax consequences" of transactions involving them. The agency is also "aware of the potential tax compliance risks posed by virtual currencies," he added.

Among the pressing issues: When should bitcoin be considered a commodity, a currency or a capital asset for tax purposes? Are bitcoin transactions similar to barter? Is bitcoin subject to the same stringent tax rules as secret offshore accounts? And how will U.S. officials keep bitcoin, which is even more anonymous than cash, from being used to promote tax evasion or money laundering?

Also up in the air: whether offshore-account reporting rules apply to bitcoin. A spokesman for FinCEN says this question is "under consideration and will be made in consultation with the IRS," but it's unclear when.

"The IRS could face a bigger headache if bitcoin and its kin replace tax havens as the venue of choice for tax evaders," Mr. Marian (a professor of law at the University of Florida) says.

Virtual currencies possess the traditional benefits of tax havens: anonymity and no tax. With rules now taking effect are putting pressure on governments and financial institutions to end offshore tax evasion, virtual currencies pose a threat to this recent success because they don't depend on banks or governments.

Mr. Marian says that he and many other specialists are "stumped" as to how the IRS will rule on Bitcoin. He says his own sense is that it's a commodity similar to gold, because there's a finite supply and it's a store of value. He adds that some Bitcoin transactions may be analogous to barter—which has its own tricky tax rules.

### Forbes article highlights

Bitcoin is usually described as virtual currency. That's useful shorthand, but is it really money? And should it be taxed as if it is? Or is it a capital asset? How about a commodity? And then there is the matter of using this quasi-cash to avoid taxes and regulation altogether.

The IRS says it is studying the matter but has yet to issue any guidance. Until it does, it is anyone's guess how Bitcoin should be taxed. Most users/investors will simply pick what is most beneficial to them when they file their 2013 returns.

Curiously, the motivating force for the IRS to issue guidance may be an effort by Cameron and Tyler Winklevoss (best known until now for their legal battle with Mark Zuckerberg over Facebook) to create an exchange-traded fund to track Bitcoin prices. The twins are awaiting SEC approval for their ETF but their very request raises important tax policy questions that need to be answered.

Back in November, Mindi Lowy and Miriam Abraham of PriceWaterhouseCoopers wrote a terrific review of the current state of play for *Tax Notes Today* (requires a subscription).

They concluded that for now virtual currency would probably be viewed as a capital asset... . However, should these vehicles gain wider commercial acceptance, they'd more likely be treated as actual currency for tax and regulatory purposes.

If Bitcoin is a capital asset (the Winklevoss ETF would treat it that way), long-term gains and losses would be subject to preferential capital gains rates (23.8 percent for high-income taxpayers). What if Bitcoin is a currency for tax purposes, the same as, say a euro? In that case, profits from sales would be taxed as ordinary income, with a top rate of 39.6 percent... .

Then there is the matter of using virtual currency to avoid all tax—as well as other laws. Last Thursday, the *Wall Street Journal's* Danny Yadron wrote a fascinating piece about Cody Wilson, the guy who made himself famous by posting online instructions for making plastic guns from 3-D printers. Wilson says he is working on software called Dark Wallet that would defeat the government's ability electronically track Bitcoin transactions.

But virtual currency isn't likely to go away. It would be useful if users didn't have to guess at its tax treatment.

**David J Utzke, PhD, MAFF, CFE, CFI, CESA**

**International Technical Specialist, Offshore Compliance, IIC, LB&I**

**Phone: 626.927.1237**

**Fax: 855.702.8175**

**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#)  
**Subject:** RE: This is the FTC's first-ever Bitcoin case. And it's winning. - The Washington Post  
**Date:** Tuesday, September 23, 2014 5:08:00 PM

---

Thanks, Doug.

-----Original Message-----

From: Fahey Douglas A  
Sent: Tuesday, September 23, 2014 5:01 PM  
To: Aqui Keith A; Welsh Donna J  
Subject: This is the FTC's first-ever Bitcoin case. And it's winning. - The Washington Post

<http://www.washingtonpost.com/blogs/the-switch/wp/2014/09/23/this-is-the-ftcs-first-ever-bitcoin-case-and-its-winning/>



**From:** [Berman Samuel](#)  
**To:** [Utzke David J](#)  
**Cc:** [Carter Kareem A](#); [Welsh Donna J](#); [Edelman Edward M](#); [Stone Christine](#)  
**Subject:** RE: US Treasury confirms Bitcoin miners and investors won't be regulated  
**Date:** Monday, February 03, 2014 12:56:06 PM

---

David,

I haven't heard anything from FinCEN yet on reporting virtual currency accounts on an FBAR.

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Utzke David J [mailto:David.Utzke@irs.gov]  
**Sent:** Monday, February 03, 2014 12:31 PM  
**To:** Berman Samuel  
**Cc:** Carter Kareem A; Welsh Donna J; Edelman Edward M; Stone Christine  
**Subject:** RE: US Treasury confirms Bitcoin miners and investors won't be regulated

These ruling address MSB registration, but I haven't seen anything yet on whether [REDACTED] (b)(5)  
[REDACTED] and just wondering if [REDACTED] (b)(5)  
maybe you have heard or seen anything.

*David J Utzke*, PhD, MAFF, CFE, CFI, CESA  
International Technical Specialist, Offshore Compliance, IIC, LB&I  
Phone: 626.927.1237  
Fax: 855.702.8175

---

**From:** Berman Samuel [mailto:Samuel.Berman@irscounsel.treas.gov]  
**Sent:** Monday, February 03, 2014 10:24 AM  
**To:** Utzke David J  
**Cc:** Carter Kareem A; Welsh Donna J; Edelman Edward M; Stone Christine  
**Subject:** RE: US Treasury confirms Bitcoin miners and investors won't be regulated

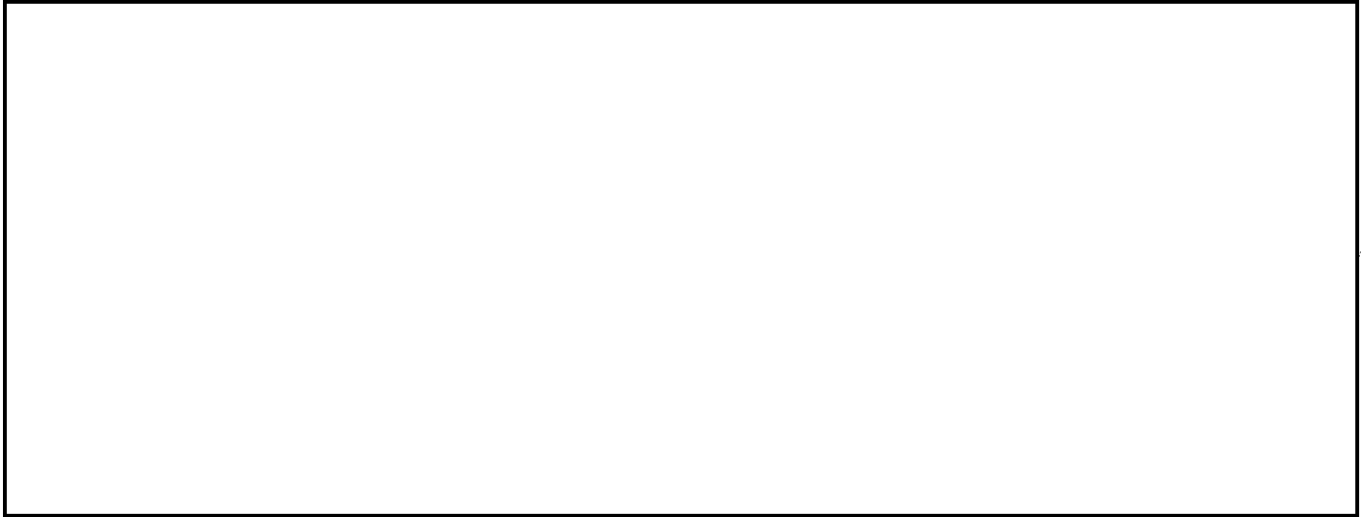
David,

Thanks. I have attached FinCEN's earlier guidance for virtual currency exchangers located in the U.S. They have to register as money services businesses. I have also attached a news release announcing the guidance. SB/SES's Bank Secrecy Act (BSA) program office is responsible for examining money services businesses for compliance with the BSA reporting and recordkeeping requirements.

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)  
Voice: (240) 613-6368  
Fax: (240) 613-6341

---

**From:** Utzke David J [<mailto:David.Utzke@irs.gov>]  
**Sent:** Monday, February 03, 2014 12:09 PM  
**To:** Edelman Edward M; Stone Christine  
**Cc:** Berman Samuel; Carter Kareem A; Welsh Donna J  
**Subject:** US Treasury confirms Bitcoin miners and investors won't be regulated



(b)(5)

*David J Utzke*, PhD, MAFF, CFE, CFI, CESA  
International Technical Specialist, Offshore Compliance, IIC, LB&I  
Phone: 626.927.1237  
Fax: 855.702.8175

**From:** [Osborne Martin L](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#); [Baumgarten Peter J](#); [Rotunno Norma C](#)  
**Subject:** RE: virtual currencies GAO recommendation :  
**Date:** Monday, July 01, 2013 10:13:11 AM

---

Seems workable to me. (Easy for me to say when most of the issues are in Group 2.)

---

**From:** Fahey Douglas A  
**Sent:** Monday, July 01, 2013 9:37 AM  
**To:** Welsh Donna J; Baumgarten Peter J; Rotunno Norma C; Osborne Martin L  
**Subject:** FW: virtual currencies GAO recommendation :

This seems workable to me. Any thoughts, concerns?

Doug Fahey  
202.622.7883

---

**From:** Ronk Alice L [<mailto:Alice.L.Ronk@irs.gov>]  
**Sent:** Monday, July 01, 2013 8:07 AM  
**To:** Powell-Stringer Portia E; Larsen Eric R; Berman Samuel; Fahey Douglas A; Welsh Donna J; Pflanz Shareen S; Shelburne Anne P; Osborne Martin L; Rotunno Norma C; Griffin Adrienne E; Hall Charles A; Jensen Steven D; Erwin Mark E; Baumgarten Peter J; Blanchard William E; Munroe David  
**Cc:** Ronk Alice L; Flack Rosemary; Cavanaugh Kimberly A  
**Subject:** FW: virtual currencies GAO recommendation :

Hi all,

I've taken a stab at an action plan and timelines. Please provide any comments or suggested changes at your earliest convenience. Also, as I mentioned in our prior call, TAS has raised the bitcoin issue again. I've excerpted the write-up from the TAS report. It is assigned to Eric LoPresti in TAS. I've also included Portia Powell-Stringer (SB/SE Communications) to assist on the Communications issues.

Thanks, in advance, for your help.

-Alice

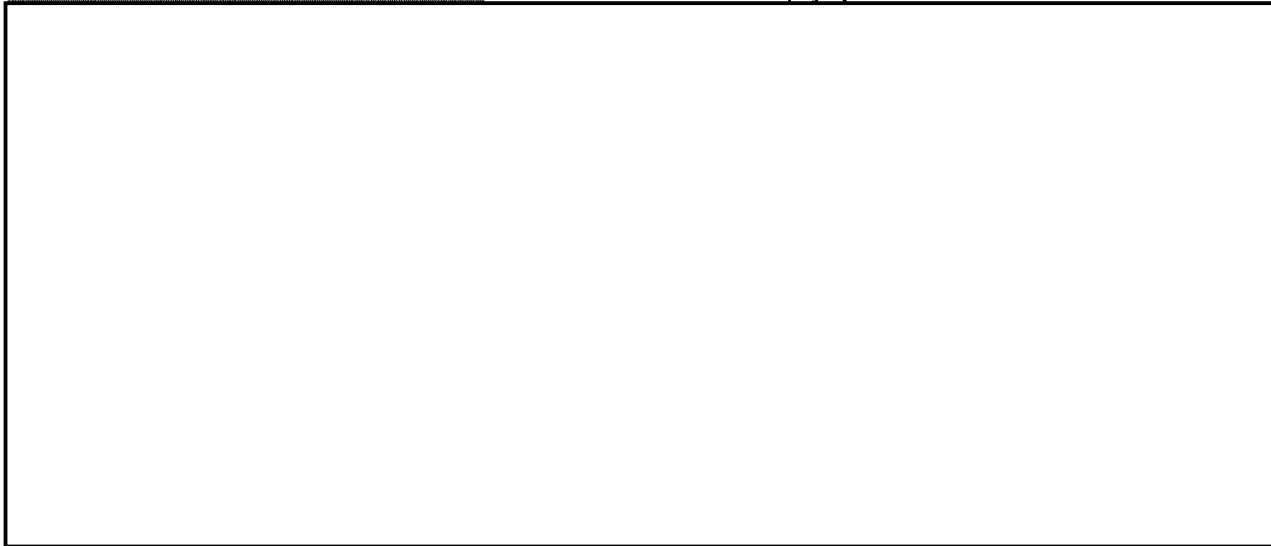
- Draft Questions and Examples that should be addressed/sent to counsel: July 15, 2013 (3 weeks) (Eric and Alice? draft questions; Counsel will provide answers to questions)
- Draft Overview and other items needed for Web page July 29, 2013 (2 weeks) (Eric and Alice draft verbiage/Communications can provide suggestions and changes to Web page)
- Review and approval process of answers to questions and web page information begins: August 15, 2013 (1 month from 7/15 date questions provided to counsel) (Chief Counsel, ITA?)
- Target Completion Date: October 15, 2013 (2 months for Counsel work and to review web-page materials)
- Target Closing on GTI database: January 15, 2014

Here is what Eric LoPresti stated during the call (per the TAS minutes):

**Bitcoins – Eric LoPresti**

The use of digital currencies, such as bitcoin, is growing. As of April 2013, about 11 million bitcoins (worth about \$1.4 billion dollars) were in circulation and users were conducting, on average, more than 2,000 transactions per hour.

The IRS has not issued any guidance addressing the tax treatment or reporting requirements applicable to digital currency transactions. Differing opinions are available on the Internet. People who are trying to comply have complained that they are unsure about the rules. Thus, IRS-issued guidance would likely promote tax compliance, particularly among those who want to comply.



(b)(5)

(b)(5)

**From:** [Shepherd Sara P](#)  
**To:** [Moriarty John P](#)  
**Subject:** RE: virtual currency conference call  
**Date:** Friday, March 28, 2014 5:08:11 PM

---

Thanks John

Sara P. Shepherd, J.D., LL.M. (Tax)  
Legislative Counsel  
Internal Revenue Service  
Tel: 202-317-4231 (\*new\*)

---

**From:** Moriarty John P [mailto:[John.P.Moriarty@irs.counsel.treas.gov](mailto:John.P.Moriarty@irs.counsel.treas.gov)]  
**Sent:** Friday, March 28, 2014 4:26 PM  
**To:** Shepherd Sara P  
**Cc:** Fahey Douglas A; Welsh Donna J; Keyso Jr. Andrew J  
**Subject:** RE: virtual currency conference call

Thanks, Sara. Rochelle could certainly point them in the right direction and I agree about checking with her before sending them her way.

John

---

**From:** Shepherd Sara P [mailto:[Sara.P.Shepherd@irs.gov](mailto:Sara.P.Shepherd@irs.gov)]  
**Sent:** Friday, March 28, 2014 4:18 PM  
**To:** Fahey Douglas A; Welsh Donna J; Moriarty John P  
**Subject:** virtual currency conference call

Thanks for participating in the call. I thought it went very well. Would Rochelle Hodes be the appropriate contact over at Treasury? I would check with her before providing the Hill with her name, FYI John Collins was referring to a Wall Street Journal blog article quoting Keith <http://blogs.wsj.com/moneybeat/2014/03/26/if-bitcoin-isnt-a-currency-can-you-use-it-like-one/>

Thanks again, Sara

Sara P. Shepherd, J.D., LL.M. (Tax)  
Legislative Counsel  
Internal Revenue Service  
Tel: 202-317-4231 (\*new\*)

**From:** [Fahey Douglas A](#)  
**To:** [Welsh Donna J](#); [Moriarty John P](#); [Aqui Keith A](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** RE: virtual currency conference call  
**Date:** Friday, March 28, 2014 4:49:04 PM

---

FYI. This is a different article than the one we read this morning. Same reporter, based on same conversation, but with a different slant.

**Doug Fahey**  
**202.317.4619**

---

**From:** Shepherd Sara P [<mailto:Sara.P.Shepherd@irs.gov>]  
**Sent:** Friday, March 28, 2014 4:18 PM  
**To:** Fahey Douglas A; Welsh Donna J; Moriarty John P  
**Subject:** virtual currency conference call

Thanks for participating in the call. I thought it went very well. Would Rochelle Hodes be the appropriate contact over at Treasury? I would check with her before providing the Hill with her name, FYI John Collins was referring to a Wall Street Journal blog article quoting Keith <http://blogs.wsj.com/moneybeat/2014/03/26/if-bitcoin-isnt-a-currency-can-you-use-it-like-one/>

Thanks again, Sara

Sara P. Shepherd, J.D., LL.M. (Tax)  
Legislative Counsel  
Internal Revenue Service  
Tel: 202-317-4231 (\*new\*)

**From:** [Warren Brinton T](#)  
**To:** [Welsh Donna J](#)  
**Subject:** RE: Virtual Currency Draft FAQs  
**Date:** Tuesday, September 17, 2013 9:45:00 AM

---

Tell me if I can do anything here. I don't really agree with [REDACTED] (b)(5)

[REDACTED] (b)(5)

[REDACTED]  
[REDACTED] Thanks (b)(5)

---

**From:** Welsh Donna J  
**Sent:** Monday, September 16, 2013 11:49 AM  
**To:** Berman Samuel  
**Cc:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Virtual Currency Draft FAQs

Hi Sam, thanks for your comments. We modeled these FAQs based on the FAQs that Counsel provided for the [REDACTED] (b)(5)

[REDACTED] (b)(5)

[REDACTED] (b)(5)

[REDACTED] Will you be back 9/30? (b)(5)

Thanks again!

---

**From:** Berman Samuel  
**Sent:** Monday, September 16, 2013 10:44 AM  
**To:** Welsh Donna J  
**Cc:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J  
**Subject:** FW: Virtual Currency Draft FAQs

Donna,

Thanks. I will be out of the office this Thursday and Friday, and on leave for all of the following week.

As a general comment, I think the responses could be better tailored for the unsophisticated

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)

Voice: (240) 613-6368

Fax: (240) 613-6341

---

**From:** Welsh Donna J

**Sent:** Friday, September 13, 2013 12:50 PM

**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J

**Cc:** Keyso Jr. Andrew J

**Subject:** RE: Virtual Currency Draft FAQs

<< File: Bit CoinFAQ0913ITADraft.docx >>

Hi Everyone, Here is the first draft FAQ based on great assistances from Intl, PA, TEGE, and FIP. I would like to meet the during the week of 9/23 to discuss comments/revisions. I would like to have a finished draft by 9/27 (plus or minus) to provide to Alice Ronk.



Thank you all for your hard work.

**From:** [Welsh Donna J](#)  
**To:** [Erwin Mark E](#); [Shelburne Anne P](#); [Vo My V](#); [Jensen Steven D](#); [Blanchard William E](#); [Rogers John W III](#); [Camillo Lynne A](#); [Shepherd Neil D](#); [Fahey Douglas A](#); [Aqui Keith A](#); [Cottrell Mark E](#); [Hall Charles A](#); [Prasad Girish](#); [Griffin Adrienne E](#); [Dubert Alexa T](#); [Berman Samuel](#); [Warren Brinton T](#); [Dwyer Sean M](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** RE: Virtual Currency Draft FAQs  
**Date:** Friday, September 13, 2013 12:49:33 PM  
**Attachments:** [Bit CoinFAQ0913ITADraft.docx](#)

---

Hi Everyone, Here is the first draft FAQ based on great assistances from Intl, PA, TEGE, and FIP. I would like to meet the during the week of 9/23 to discuss comments/revisions. I would like to have a finished draft by 9/27 (plus or minus) to provide to Alice Ronk.

Thank you all for your hard work.

**From:** [Warren Brinton T](#)  
**To:** [Welsh Donna J](#)  
**Subject:** RE: Virtual Currency Draft FAQs  
**Date:** Friday, September 13, 2013 12:53:00 PM

---

Thanks, have a great weekend!

---

**From:** Welsh Donna J  
**Sent:** Friday, September 13, 2013 12:52 PM  
**To:** Warren Brinton T  
**Subject:** RE: Virtual Currency Draft FAQs

PUBWE-131431-13

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**From:** Warren Brinton T  
**Sent:** Friday, September 13, 2013 12:52 PM  
**To:** Welsh Donna J  
**Subject:** RE: Virtual Currency Draft FAQs

Sorry to have to ask bc I probably have this info elsewhere, but what Techmis number do we bill to for this? Thanks

---

**From:** Welsh Donna J  
**Sent:** Friday, September 13, 2013 12:50 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Aqui Keith A; Welsh Donna J  
**Cc:** Keyso Jr. Andrew J  
**Subject:** RE: Virtual Currency Draft FAQs

<< File: Bit CoinFAQ0913ITADraft.docx >>

Hi Everyone, Here is the first draft FAQ based on great assistances from Intl, PA, TEGE, and FIP. I would like to meet the during the week of 9/23 to discuss comments/revisions. I would like to have a finished draft by 9/27 (plus or minus) to provide to Alice Ronk.

Thank you all for your hard work.

**From:** [Welsh Donna J](#)  
**To:** [Erwin Mark E](#); [Shelburne Anne P](#); [Vo My V](#); [Jensen Steven D](#); [Blanchard William E](#); [Rogers John W III](#); [Camillo Lynne A](#); [Shepherd Neil D](#); [Fahey Douglas A](#); [Aqui Keith A](#); [Cottrell Mark E](#); [Hall Charles A](#); [Prasad Girish](#); [Griffin Adrienne E](#); [Dubert Alexa T](#); [Berman Samuel](#); [Warren Brinton T](#); [Dwyer Sean M](#); [Richards John B](#); [Tackney Stephen B](#)  
**Cc:** [Cook Janine](#)  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits  
**Date:** Tuesday, September 24, 2013 11:17:16 AM

---

Thursday's meeting at 10 will be held in Room 4415. Thanks.

-----Original Appointment-----

**From:** Welsh Donna J  
**Sent:** Wednesday, September 18, 2013 4:37 PM  
**To:** Welsh Donna J; Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B  
**Cc:** Cook Janine  
**Subject:** Virtual Currency Draft FAQs--Final Edits  
**When:** Thursday, September 26, 2013 10:00 AM-11:00 AM (GMT-05:00) Eastern Time (US & Canada).  
**Where:** to be determined

<< File: Bit CoinFAQ0918ITADraft.docx >>

Hi Everyone, I would like to meet with the group to discuss comments/revisions to this revised draft. TEGE may have additional comments before our meeting. I would like to finalize the Associate Offices' draft by 9/30 so that we can share it with the 3<sup>rd</sup> Floor before we provide it to the IRS side on 10/15.

Thank you all for your hard work.

**From:** [Welsh Donna J](#)  
**To:** [Dwyer Sean M](#)  
**Cc:** [Aqui Keith A](#)  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits  
**Date:** Wednesday, October 23, 2013 11:05:10 AM

---

Thank you!

---

**From:** Dwyer Sean M  
**Sent:** Wednesday, October 23, 2013 10:40 AM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

We have no comments.

---

**From:** Kane Christopher F  
**Sent:** Wednesday, October 23, 2013 10:20 AM  
**To:** Dwyer Sean M  
**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

I have no comments

---

**From:** Dwyer Sean M  
**Sent:** Tuesday, October 22, 2013 4:36 PM  
**To:** Kane Christopher F  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

Just noticed you weren't on the distribution list.

I don't have any comments. They made the change we suggested last time.

---

**From:** Welsh Donna J  
**Sent:** Friday, October 18, 2013 1:17 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J; Keyso Jr. Andrew J; Cook Janine; Welsh Donna J  
**Subject:** FW: Virtual Currency Draft FAQs--Final Edits

Hi Everyone, I will spare you the welcome back speech. But I would appreciate your final edits by COB 10/23/13.

Thanks!  
djw

---

**From:** Welsh Donna J  
**Sent:** Friday, September 27, 2013 4:05 PM  
**To:** Erwin Mark E; Shelburne Anne P; Vo My V; Jensen Steven D; Blanchard William E; Rogers John W III; Camillo Lynne A; Shepherd Neil D; Fahey Douglas A; Aqui Keith A; Cottrell Mark E; Hall Charles A; Prasad Girish; Griffin Adrienne E; Dubert Alexa T; Berman Samuel; Warren Brinton T; Dwyer Sean M; Richards John B; Tackney Stephen B; Welsh Donna J

**Cc:** Cook Janine; Keyso Jr. Andrew J

**Subject:** RE: Virtual Currency Draft FAQs--Final Edits

Hi everyone, Here's what I hope is the final version. This revised draft includes an intro and a few misc edits. We kept TEGE's version of the Q&A on mining b/c it is helpful info on self-employment. Please read afresh b/c there are minor edits here and there. I would appreciate you final comments/edit by COB Tuesday so that we can send forward for briefing.

Thanks!

Donna

**From:** [Welsh Donna J](#)  
**To:** [Ronk Alice L](#)  
**Cc:** [Rochelle.Hodes@treasury.gov](#); [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: Virtual Currency FAQs  
**Date:** Tuesday, December 03, 2013 11:04:46 AM

---

Hi Alice,

(b)(5)

(b)(5)

Thanks.

---

**From:** [Rochelle.Hodes@treasury.gov](#) [mailto:[Rochelle.Hodes@treasury.gov](#)]  
**Sent:** Monday, December 02, 2013 3:11 PM  
**To:** Ronk Alice L; Welsh Donna J  
**Subject:** RE: Virtual Currency FAQs

Alice, Treasury is in the process of reviewing the FAQs that Donna sent over. You will have to speak with her about that. Note, that we are currently reviewing the draft that Donna sent over.

---

**From:** Ronk Alice L [mailto:[Alice.L.Ronk@irs.gov](#)]  
**Sent:** Monday, December 02, 2013 2:29 PM  
**To:** Hodes, Rochelle; Welsh, Donna J  
**Cc:** Ronk Alice L  
**Subject:** Virtual Currency FAQs

Donna and Rochelle,

I hope you each had a nice Thanksgiving. I wanted to let you know that in SB/SE (Commissioner's office and SB/SE Communications)

(b)(5)

(b)(5)

[Redacted]

(b)(5)

[Redacted]

(b)(5)

But I want to be helpful, if I

can.

Thanks.

-Alice



**From:** [Welsh Donna J](#)  
**To:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Cc:** [Ronk Alice L](#); [Berman Samuel](#); [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: Virtual Currency FAQs  
**Date:** Monday, January 06, 2014 2:15:55 PM

---

Awesome. Thx!

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [mailto:[Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)]  
**Sent:** Monday, January 06, 2014 2:09 PM  
**To:** Welsh Donna J  
**Cc:** [Ronk Alice L](#); [Berman Samuel](#); [Fahey Douglas A](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** RE: Virtual Currency FAQs

Hi. I asked for comments from other offices here by Wed. If you don't hear from me by Friday, would you please send me another reminder?

---

**From:** [Welsh Donna J \[mailto:Donna.J.Welsh@irscounsel.treas.gov\]](mailto:Donna.J.Welsh@irscounsel.treas.gov)  
**Sent:** Monday, January 06, 2014 2:08 PM  
**To:** Hodes, Rochelle  
**Cc:** [Ronk Alice L](#); [Berman, Samuel](#); [Fahey, Douglas A](#); [Aqui, Keith A](#); [Welsh, Donna J](#)  
**Subject:** Virtual Currency FAQs

Hi Rochelle, Happy New Year!

I am just checking in on the status of the FAQs to ask when we might have Treasury's comments. I know that you are working hard to keep it moving, and we appreciate your help.

Take care,  
Donna

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Fahey Douglas A](#); [Moriarty John P](#)  
**Subject:** RE: Virtual currency lecture program  
**Date:** Tuesday, April 01, 2014 9:27:53 AM

---

Wonderful. Should be an interesting panel.

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, April 01, 2014 9:25 AM  
**To:** Moriarty John P; Keyso Jr. Andrew J  
**Subject:** FW: Virtual currency lecture program

FYI. Looks like we have participants for our lecture program.

**Doug Fahey**  
**202.317.4619**

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, April 01, 2014 9:17 AM  
**To:** 'Rochelle.Hodes@treasury.gov'  
**Cc:** Anne.Wallwork@treasury.gov; Jamal.El-Hindi@fincen.gov; Sarah.Runge@treasury.gov; Scott.Rembrandt@treasury.gov  
**Subject:** RE: Virtual currency lecture program

Hello and thanks to all. I'll be in touch in the next day or so to work out details.

**Doug Fahey**  
**202.317.4619**

---

**From:** [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov) [<mailto:Rochelle.Hodes@treasury.gov>]  
**Sent:** Tuesday, April 01, 2014 9:14 AM  
**To:** Fahey Douglas A  
**Cc:** [Anne.Wallwork@treasury.gov](mailto:Anne.Wallwork@treasury.gov); [Jamal.El-Hindi@fincen.gov](mailto:Jamal.El-Hindi@fincen.gov); [Sarah.Runge@treasury.gov](mailto:Sarah.Runge@treasury.gov); [Scott.Rembrandt@treasury.gov](mailto:Scott.Rembrandt@treasury.gov)  
**Subject:** RE: Virtual currency lecture program

Thanks Sarah.

Doug, see Sarah's message below. Please feel free to work directly with Anne, Scott, and Jamal. I have included them on this e-mail.

---

**From:** Runge, Sarah  
**Sent:** Tuesday, April 01, 2014 9:12 AM  
**To:** Hodes, Rochelle; Rembrandt, Scott  
**Subject:** Re: Virtual currency lecture program

Rochelle,

We'd like to recommend Anne Wallwork from our office and Jamal El-hindi from FinCEN. Unfortunately, Anne will be out those dates, so I'd suggest Scott if we have the time.

Thanks very much for thinking of us.

Sarah  
Thank you!

---

**From:** Hodes, Rochelle  
**Sent:** Monday, March 31, 2014 12:11 PM Eastern Standard Time  
**To:** Rembrandt, Scott; Runge, Sarah  
**Subject:** FW: Virtual currency lecture program

Hi. I was wondering if you guys had a chance to make a decision on this. Doug has written to ask if I have heard anything. Thanks!

---

**From:** Hodes, Rochelle  
**Sent:** Thursday, March 20, 2014 5:39 PM  
**To:** Runge, Sarah; Rembrandt, Scott  
**Subject:** FW: Virtual currency lecture program

Sarah and Scott, please see the e-mail below from Doug Fahey, in the IRS Office of Chief Counsel, inviting you to send representatives to participate in internal IRS attorney training. Doug is one of the folks in Counsel responsible for the Bitcoin notice. You should feel no pressure to participate. Note also that while the training is internal, the videos are subject to FOIA. Please let me know one way or the other if someone from your office or FinCEN is interested in participating.

---

**From:** Fahey Douglas A [<mailto:Douglas.A.Fahey@irs.counsel.treas.gov>]  
**Sent:** Thursday, March 20, 2014 5:23 PM  
**To:** Hodes, Rochelle  
**Subject:** Virtual currency lecture program

Rochelle, to follow-up on our discussion yesterday, for many years the Chief Counsel has sponsored a monthly lecture series. On an ad hoc rotating basis, one of the Associate Chief Counsels' offices is responsible for organizing and putting on a lecture, and ITA's turn is coming up. Each lecture typically begins at 10:00 A.M. and runs approximately 90 minutes. At this point, we have the option of presenting our lecture on April 24<sup>th</sup> or June 4<sup>th</sup> or 5<sup>th</sup>.

We think there will be considerable interest in a program on virtual currency. We plan to have a panel of attorneys who are working on our soon-to-be published guidance address virtual currency transactions from a tax perspective. We think there would be substantial interest as well in discussion of virtual currency from other perspectives, and would like to invite members of TFI and FinCEN to join our panel as guest participants.

We anticipate the guest participants would give a brief overview of their agency's missions and

objectives, and then discuss how virtual currency comes into play. However, they would certainly be free to make any changes to that and to decide the level of detail they think is appropriate. As we discussed, the lectures are videotaped and made available to our attorneys across the country on the Chief Counsel intranet site. The lectures may also be the subject of a FOIA request.

I don't know who in TFI and FinCEN have been involved in the guidance project, so I would appreciate it if you would forward this e-mail to them as our invitation to participate. Many thanks.

**From:** Fahey Douglas A  
**To:** Moriarty John P  
**Cc:** Keyso Jr. Andrew J  
**Subject:** RE: Virtual Currency Notice - question from Heather  
**Date:** Wednesday, February 26, 2014 9:40:52 AM

---

I'll talk to Steve, maybe with Donna.

Doug Fahey  
NEW PHONE 202-317-4619

-----Original Message-----

From: Moriarty John P  
Sent: Wednesday, February 26, 2014 8:52 AM  
To: Fahey Douglas A  
Cc: Keyso Jr. Andrew J  
Subject: RE: Virtual Currency Notice - question from Heather

Doug,

Do you need or want me on the line when you talk with Steve?

(b)(5)

(b)(5)

Am I close to correct?

(b)(5)

John

-----Original Message-----

From: Blum Steven H  
Sent: Wednesday, February 26, 2014 6:24 AM  
To: Fahey Douglas A; Moriarty John P  
Cc: Shuman Lisa J  
Subject: Virtual Currency Notice - question from Heather

Hi John and Doug.

Linda Kroening got a question from Heather Maloy on this notice. She asked us to check with you for anything you can tell us.

She said that

(b)(5)

(b)(5)

I know you are trying to clear this quickly, so if it would help to discuss today, please let me know and I can arrange a brief call.

Thank you for any help you can provide.

Regards,

Steve Blum  
(202) 515-4404

**From:** [Berman Samuel](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Moriarty John P](#); [Welsh Donna J](#); [Ronk Alice L](#); [Shelburne Anne P](#); [Erwin Mark E](#); [Jensen Steven D](#); [Stahl Raymond J](#); [Blanchard William E](#); [Rogers John W III](#); [Dubert Alexa T](#); [Tackney Stephen B](#); [Richards John B](#); [Shepherd Neil D](#); [Hall Charles A](#); [Griffin Adrienne E](#); [Prasad Girish](#); [Aqui Keith A](#); [Burns Gregory](#); [Milnes-Vasquez Marie C](#); [Moe Debra K](#); [Travers Thomas J](#); [Mattonen Kimberly](#)  
**Subject:** RE: Virtual currency notice  
**Date:** Wednesday, March 12, 2014 7:10:09 PM  
**Attachments:** [Bitcoin Notice 3-7-14\\_SB edits.docx](#)

---

Doug,

This version of the draft has my comments and one suggested edit. I did a Google search of the term “convertible virtual currency.” The links I saw all pointed to FinCEN’s March 2013 guidance. I’m not aware of anyone using that term other than FinCEN.

(b)(5)

(b)(5)

Samuel Berman  
Special Counsel  
Office of Division Counsel  
(Small Business/Self-Employed)

Voice: (240) 613-6368

Fax: (240) 613-6341

---

**From:** Fahey Douglas A  
**Sent:** Monday, February 24, 2014 1:17 PM  
**To:** Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Burns Gregory; Berman Samuel; Milnes-Vasquez Marie C  
**Cc:** Keyso Jr. Andrew J; Moriarty John P  
**Subject:** Virtual currency notice

Attached is a revised version of the draft notice that incorporates comments received on the greensheet circulation, adding them to that draft. Please review and let me know if anything was overlooked, screwed up etc. I've included comments about some of the more significant revisions, including a few with questions. Your thoughts on any of those comments are welcome. Based on an ACCI comment, I've also added an alternative version of Q&A-6. I know that is one of ITA's, but let me know if you have any reaction to that as well.

We're still shooting for release by the end of this week, and I would like to send the next draft to Treasury by COB today. I would appreciate receiving comments by then, if at all possible. Thanks.

<< File: Bitcoin Notice 2-24-14.docx >>

Doug Fahey

**NEW PHONE 202-317-4619**

**From:** [Rountree, Daniel](#)  
**To:** [Moriarty John P](#)  
**Subject:** RE: Virtual currency presentation  
**Date:** Thursday, April 03, 2014 3:18:49 PM

---

Hi John,

Jamal, Sarah and Scott are great resources.

Thanks also for the information regarding your monthly lecture series. I'll be sharing it with our team here.

Thanks

dan

-----Original Message-----

From: Moriarty John P [<mailto:John.P.Moriarty@irs.counsel.treas.gov>]  
Sent: Thursday, April 03, 2014 8:29 AM  
To: Rountree, Daniel  
Subject: Virtual currency presentation

Dan,

I wanted to circle back to you about the program I mentioned to you. I appreciate your willingness to help us find presenters for the internal Bitcoin presentation we're putting together. It looks like our contacts in Tax Legislative Counsel were able to help identify speakers. Sarah Runge, Jamal El-hindi and Scott Rembrandt have agreed to help us. Nevertheless, I want to thank you for being willing to help. Let me know when I can return the favor.

John P. Moriarty  
Deputy Associate Chief Counsel (ITA)  
202-317-7002

P.S. FYI, and by way of background in case you're interested, for many years the IRS Office of Chief Counsel has sponsored a monthly lecture series. On an ad hoc rotating basis, one of its Associate Chief Counsels' offices is responsible for organizing and putting on a lecture, and my office's (ITA's) turn is coming up. We think there will be considerable interest in a program on virtual currency and plan to have a panel of attorneys who worked on our notice address virtual currency transactions from a tax perspective. We think there would be substantial interest as well in a discussion of virtual currency from other perspectives, which is why we reached out through TLC to invite members of TFI and FinCEN to join our panel as guest participants. We're hoping Sara, Jamal and/or Scott will provide a brief overview of Fin CEN and TFI's missions and objectives, and then discuss how virtual currency comes into play. The date for the presentation has not been firmly set but is likely to occur in early June. I've asked our attorney who is organizing the presentation to explore opening it to anyone in TFI or FinCEN who would be interested in learning about the taxation of Bitcoins.



**From:** Welsh Donna J  
**To:** Griffin Adrienne E  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E; Fahey Douglas A; Aqui Keith A; Welsh Donna J  
**Subject:** RE: Virtual Currency written responses  
**Date:** Thursday, August 22, 2013 1:45:29 PM

---

Thanks a bunch!

The ones you do answer are helpful and I think they are the key questions for PA.

---

**From:** Griffin Adrienne E  
**Sent:** Thursday, August 22, 2013 1:36 PM  
**To:** Welsh Donna J  
**Cc:** Prasad Girish; Hall Charles A; Cottrell Mark E  
**Subject:** Virtual Currency written responses

Donna,

Please find attached P&A's draft written responses to the information reporting questions from the virtual currency/bitcoin document the Service drafted.

(b)(5)

If you have any questions or would like to discuss this draft, please let us know.

Thanks,  
Adrienne

<< File: Bitcoin Responses Draft 08222013.docx >>

***Adrienne Griffin***

CC:PA:Branch 1  
Rm. 5141  
1111 Constitution Avenue, N.W.  
Washington, DC 20224  
202-622-6808

**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#)  
**Subject:** RE: Virtual currency  
**Date:** Monday, September 09, 2013 10:42:00 AM

---

Thank you!

---

**From:** Welsh Donna J  
**Sent:** Friday, September 06, 2013 5:09 PM  
**To:** Warren Brinton T; Aqui Keith A  
**Subject:** FW: Virtual currency

About Monday's meeting in Room 4562 with International.

---

**From:** Erwin Mark E  
**Sent:** Wednesday, September 04, 2013 5:41 PM  
**To:** Welsh Donna J; Jensen Steven D  
**Cc:** Keyso Jr. Andrew J; Fahey Douglas A  
**Subject:** RE: Virtual currency

Donna thanks. This is very helpful [REDACTED]

(b)(5)

(b)(5)

[REDACTED] Your preliminary view sounds to me like the correct view.

(b)(5)

We appreciate you joining us on Monday.

Regards,

Mark

---

**From:** Welsh Donna J

**Sent:** Wednesday, September 04, 2013 5:22 PM

**To:** Erwin Mark E; Jensen Steven D

**Cc:** Keyso Jr. Andrew J; Fahey Douglas A

**Subject:** FW: Virtual currency

Hi Mark and Steve, [REDACTED]

(b)(5)

(b)(5)

(b)(5)

[REDACTED] Of course, all of this will be looked at very carefully by Treasury and others.

(b)(5)

I will join you in Room 4562 on Monday.

---

**From:** Erwin Mark E

**Sent:** Wednesday, September 04, 2013 12:31 PM

**To:** Welsh Donna J; Jensen Steven D

**Subject:** RE: Virtual currency

IPN stands for International Practice Network -- it's analogous to domestic IPGs. The call is scheduled for Monday, Sept 9 at 1pm.

Conf call [REDACTED] access code [REDACTED]

(b)(7)(E)

You're welcome to join us in 4562 to do the call, if you'd prefer.

(b)(5)

Thanks

---

**From:** Welsh Donna J

**Sent:** Wednesday, September 04, 2013 11:02 AM

**To:** Erwin Mark E; Jensen Steven D

**Subject:** RE: Virtual currency

Hi Mark, We do not have a working draft at this time. What does IPN stand for? Do we have a call in number or Room number for Monday? Thanks.

---

**From:** Erwin Mark E

**Sent:** Wednesday, September 04, 2013 9:55 AM

**To:** Welsh Donna J; Jensen Steven D

**Subject:** Virtual currency

Hi Donna,

Does ITA have a current draft of the proposed guidance on virtual currency that you can share with

us? We'd like to prepare for the call on Monday with the IPN, and we also need to provide our front office with an update on this project.

Thanks,

Mark

Mark E. Erwin

Chief, Branch 5

Office of Associate Chief Counsel (INTL)

202-622-3295

**From:** [Welsh Donna J](#)  
**To:** [Fahey Douglas A](#); [Aqui Keith A](#)  
**Subject:** RE: WALL STREET JOURNAL: I'm writing about Bitcoin  
**Date:** Tuesday, December 17, 2013 11:05:51 AM

---

Hi Doug, Let me know when you would like to call him.

Cheers!  
djw

---

**From:** Fahey Douglas A  
**Sent:** Tuesday, December 17, 2013 9:55 AM  
**To:** Welsh Donna J; Aqui Keith A  
**Subject:** FW: WALL STREET JOURNAL: I'm writing about Bitcoin

FYI. Haven't responded to Bruce yet.

Doug Fahey  
**NEW PHONE 202-317-4619**

---

**From:** Friedland Bruce I [<mailto:Bruce.I.Friedland@irs.gov>]  
**Sent:** Tuesday, December 17, 2013 9:38 AM  
**To:** Fahey Douglas A; Keyso Jr. Andrew J  
**Cc:** Patterson Dean J  
**Subject:** WALL STREET JOURNAL: I'm writing about Bitcoin

Doug and Andy,

Laura Saunders is writing about Bitcoin.

Below is her inquiry and below that an earlier note.

Let's have a brief conversation.

Bruce  
202-317-4000

---

**From:** Saunders, Laura [<mailto:Laura.Saunders@wsj.com>]  
**Sent:** Monday, December 16, 2013 3:07 PM  
**To:** Friedland Bruce I  
**Cc:** Smith Eric L  
**Subject:** I'm writing about Bitcoin

& tax issues, I think for this week. I.e. Is Bitcoin the tax haven of the future?

Specific questions for IRS comment:

l) If a U.S. taxpayer has \_\_\_\_\_ amount of Bitcoin or another virtual currency, does the taxpayer have to file an FBAR or a FATCA form 8938?

2) Are gains on Bitcoin or another virtual currency treated as from property, currency, barter, or a financial instrument? Or a collectible?

3) Does the IRS have any current projects addressing the taxation of virtual currencies?

Anything else you want to say on this subject?

Deadline:

I'm working on something for this week.

Cheers!

Laura

P.S.: any new OVDI/OVDP numbers? (I had to ask)

Laura Saunders  
The Wall Street Journal  
1211 Avenue of the Americas  
New York, NY 10036  
212 416 2781

<https://twitter.com/saunderswsj>

**From:** Friedland Bruce I  
**Sent:** Tuesday, November 19, 2013 11:53 AM  
**To:** Fahey Douglas A  
**Cc:** Keyso Jr. Andrew J; Patterson Dean J  
**Subject:** WSJ: Bitcoin Inquiry

Laura Saunders of the Wall Street Journal is writing about Bitcoin, probably as a result of the hearing yesterday (see the reference to us from the NY Times article this morning below). She will be writing a paragraph or two that seeks to characterize the open tax questions related to Bitcoin. She didn't provide a lot of detail, but suggested that there ambiguities involving looking at transaction involving bitcoins as barter.

Here in media relations, we would like to make sure we're roughly up to speed on the rough contours of this issue -- what you guys are weighing in your thought. We aren't interested in generating stories about this, BUT we also don't want a bad story that mischaracterizes the situation to generate even more inquiries for CC to handle.

Let us know what you think is advisable for us to know.

Bruce  
202-317-4000

As you probably saw in the New York Times story today a comment by a FinCEN official:

**From:** [Baumgarten Peter J](#)  
**To:** [Fahey Douglas A](#)  
**Cc:** [Welsh Donna J](#)  
**Subject:** RE: WashPost: The rise of the bitcoin: Virtual gold or cyber-bubble?  
**Date:** Friday, April 05, 2013 10:01:01 AM

---

With a two month increase in value of 550% (and a one year increase approaching 2700%), it is bound to be noticed by someone.

---

**From:** Fahey Douglas A  
**Sent:** Friday, April 05, 2013 9:42 AM  
**To:** Baumgarten Peter J; Welsh Donna J  
**Subject:** RE: WashPost: The rise of the bitcoin: Virtual gold or cyber-bubble?

I wouldn't be surprised if the consciousness on the Hill is raised as well.

Doug Fahey  
202.622.7883

---

**From:** Baumgarten Peter J  
**Sent:** Friday, April 05, 2013 9:40 AM  
**To:** Fahey Douglas A; Welsh Donna J  
**Subject:** RE: WashPost: The rise of the bitcoin: Virtual gold or cyber-bubble?

Now that our consciousness is raised, we are seeing reference to bitcoin everywhere it seems.

---

**From:** Fahey Douglas A  
**Sent:** Friday, April 05, 2013 9:24 AM  
**To:** Baumgarten Peter J; Welsh Donna J  
**Subject:** FW: WashPost: The rise of the bitcoin: Virtual gold or cyber-bubble?

FYI.

Doug Fahey  
202.622.7883

---

**From:** Keyso Jr. Andrew J  
**Sent:** Friday, April 05, 2013 8:33 AM  
**To:** Fahey Douglas A  
**Subject:** FW: WashPost: The rise of the bitcoin: Virtual gold or cyber-bubble?

From today's Washington Post.

---

**From:** [noreply@washingtonpost.com](mailto:noreply@washingtonpost.com) [<mailto:noreply@washingtonpost.com>]  
**Sent:** Thursday, April 04, 2013 11:03 PM



**To:** Keyso Jr. Andrew J

**Subject:** WashPost: The rise of the bitcoin: Virtual gold or cyber-bubble?

## E-mail

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### The rise of the bitcoin: Virtual gold or cyber-bubble?

*By Anthony Faiola*

LONDON — A currency surging in value at a breathtaking rate this week belongs to no nation and is issued by no central bank. It can be used to buy gold in California, a hamburger in Berlin or a house in Alberta. When desired, it can offer largely untraceable transactions.



Do you love D.C.? Get the insider's guide to where to stay, what to do and where to eat. Go to [www.washingtonpost.com/gog](http://www.washingtonpost.com/gog) for your guide to D.C. now.

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**From:** [Fahey Douglas A](#)  
**To:** [&ITA Legal](#); [&NO-All ACC and DACC](#); [&NO-All Division Counsel](#); [Berman Samuel](#); [Corwin Erik H](#); [Stern](#)  
[Christopher B](#); [Wilkins William J](#); [Zarlenga Lisa \(OTP\)](#)  
**Cc:** [Khoury Mireille](#); [Milnes-Vasquez Marie C](#); [Shepherd Sara P](#); [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Release of Notice 2014-21 - Virtual Currency  
**Date:** Tuesday, March 25, 2014 2:18:31 PM  
**Attachments:** [Notice 2014-21 3-25-14 CLEAN.docx](#)  
[IR-2014-21-Virtual Currency.doc](#)

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This afternoon Media Relations released Notice 2014-21, which describes how existing general tax principles apply to transactions using virtual currency, such as Bitcoin.

Notice 2014-21 and the accompanying news release are attached.

**Doug Fahey**  
**202.317.4619**

**From:** [Ratchford Robert S \(NO\)](#)  
**To:** [&All Counsel Users](#); [Baek Laura](#); [Bartmann Amanda K](#); [Beck Joshua R](#); [Brand Norman](#); [Claybough Cheryl P](#); [Drexler Kenneth J](#); [Duling Christopher M](#); [Dyson Cynthia D](#); [Gene Cantor](#); [Hawkins Karen L](#); [Kenney Megan B](#); [Lee Christopher J](#); [Lopresti Eric R](#); [Macnabb Jill](#); [Patrick Nash](#); [Rachel Cramer](#); [Randy Bergquist](#); [Shiller Rostyslav I](#); [Thomas Glenn](#); [Wagner Elizabeth](#)  
**Cc:** [Brown Jeffrey A](#); [Matthews Natalie S](#)  
**Subject:** Reminder: Chief Counsel Lecture Series: Making Heads or Tails of Virtual Currencies - Wednesday, June 4, 2014 10:00AM to 11:30AM  
**Date:** Monday, June 02, 2014 4:08:37 PM  
**Attachments:** [06\\_04\\_14\\_Chief\\_Counsel\\_Lecture\\_Series.vcs](#)

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\*\*\*\*\* **Reminder** \*\*\*\*\*

**Chief Counsel Lecture Series**  
**“Making Heads or Tails of Virtual Currencies”**  
**Wednesday, June 4, 2014 10:00am to 11:30am ET**  
**7<sup>th</sup> floor auditorium, 1111 Constitution Ave, NW, Washington DC 20224**

The increasing use of virtual currencies, including Bitcoin, as a medium of exchange has attracted a lot of public interest and media attention recently. This *ACC Income Tax and Accounting* sponsored presentation will explore virtual currencies from the perspectives of different offices within the Department of Treasury. A representative from the Office of Terrorist Financing and Financial Crimes will discuss the concerns raised by the use of virtual currencies for terrorist financing purposes. There will also be a discussion of the rules, as developed by the Financial Crimes Enforcement Network (FinCEN), that apply to "users," "administrators," and "exchangers" of virtual currencies for purposes of the Bank Secrecy Act. Finally, several Chief Counsel attorneys will discuss Notice 2014-21, which explains in Q&A format how existing general tax principles apply to transactions using virtual currency.

**Presenters:**

**Andrew Keyso** (*Moderator*)

*Associate Chief Counsel, Income Tax and Accounting Division*

**Neil Shepherd**

*Senior Counsel with Employment Tax Branch Two, Tax Exempt and Government Entities Division, IRS, Office of Chief Counsel*

**Ray Stahl**

*Docket Attorney, International Division, IRS, Office of Chief Counsel*

**Charles Hall**

*Senior Technician Reviewer, Procedure & Administration Division Branch 1, IRS, Office of Chief Counsel*

**Donna Welsh**

*Senior Technician Reviewer, Income Tax and Accounting Division Branch 4, IRS, Office of Chief Counsel*

**Anne Wallwork**

*Senior Counselor for Strategic Policy, Office of Terrorist Financing and Financial Crimes*

## **Registration Information**

### **Chief Counsel / IRS Employees**

1. Click [here](#) to go directly to the ELMS registration page.
2. You will then be prompted to sign into ELMS (for help creating an ELMS account, read [here](#)).
3. Click on **Register**.
4. Click on **Confirm**.
5. You will receive an email confirmation from ELMS.

### **DOJ Employees**

Contact the Program Manager.

## **Program Recording**

The **program will be recorded** and posted to the Training streaming media site a few weeks after the live lecture. No need to register to view via streaming media.

### **Questions:**

Please contact the Program Manager, Natalie Matthews with any questions.

Email: [Natalie Matthews](#) or Phone: (202) 317-5995.

**From:** [Aqui Keith A](#)  
**To:** [Welsh Donna J](#); [Warren Brinton T](#)  
**Cc:** [Aqui Keith A](#)  
**Subject:** Revised FAQ's  
**Date:** Thursday, September 26, 2013 12:00:52 PM  
**Attachments:** [Virtual Currency QA 0926CLEAN.doc](#)  
[Virtual Currency QA 0926COMBINED.doc](#)

---

Please find attached copies of the FAQ's with suggestions incorporated. I have also included a "clean" copy to facilitate Warren's creation of the Introduction.

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Revised news release, "talkers"  
**Date:** Wednesday, March 19, 2014 3:49:49 PM  
**Attachments:** [Bitcoin Talkers 03-19-14.doc](#)  
[IR-2014-xx-bitcoin 3-19-14.doc](#)

---

I made revisions based on the latest draft. Let me know of any needed changes, etc.

**From:** [Fahey Douglas A](#)  
**To:** [Corwin Erik H](#)  
**Cc:** [Milnes-Vasquez Marie C](#); [Keyso Jr. Andrew J](#); [Moriarty John P](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Revised virtual currency draft  
**Date:** Thursday, March 13, 2014 5:00:51 PM  
**Attachments:** [Bitcoin Notice 3-13-14 CC.docx](#)

---

Here's revised draft with the edits we discussed earlier.

Doug Fahey  
**NEW PHONE 202-317-4619**

**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Crisalli Donna M](#); [Pfalzgraf Amy J](#); [Fahey Douglas A](#); [Welsh Donna J](#)  
**Subject:** Taxation of Financial Products Volume 11 Issue 3 2013  
**Date:** Tuesday, January 14, 2014 2:26:04 PM  
**Attachments:** [WCNCB\\_011414\\_141616.pdf](#)  
[WCNCB\\_011414\\_141553.pdf](#)  
[WCNCB\\_011414\\_141528.pdf](#)  
[WCNCB\\_011414\\_141439.pdf](#)  
[WCNCB\\_011414\\_141356.pdf](#)

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(1) Cost basis reporting article; (2) mixed straddle article; (3) wash sale article; (4) OID cash flow article; and (5) bitcoin article

Cost basis reporting article

Mixed straddle article

Wash sale article

OID cash flow article

Bitcoin article



**From:** [Aqui Keith A](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#)  
**Subject:** The Digital Wallet Revolution - NYTimes.com  
**Date:** Thursday, September 11, 2014 11:24:00 AM

---

<http://www.nytimes.com/2014/09/11/opinion/the-digital-wallet-revolution.html?smid=nytcore-iphone-share&smprod=nytcore-iphone&r=0>

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** The District's first bitcoin ATM arrives at the Diner - The Washington Post  
**Date:** Wednesday, December 17, 2014 3:58:44 PM

---

<http://www.washingtonpost.com/news/digger/wp/2014/12/17/the-districts-first-bitcoin-atm-arrives-at-the-diner/?hpid=z4>

**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** This is the FTC's first-ever Bitcoin case. And it's winning. - The Washington Post  
**Date:** Tuesday, September 23, 2014 5:01:02 PM

---

<http://www.washingtonpost.com/blogs/the-switch/wp/2014/09/23/this-is-the-ftcs-first-ever-bitcoin-case-and-its-winning/>

**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Balacek Victoria](#); [Erwin Mark E](#); [Welsh Donna J](#); [Irving Andrew M](#)  
**Subject:** TNT articles on captive insurance and 1234/1234A (capital asset) and BNA article on bitcoin  
**Date:** Thursday, March 19, 2015 7:00:00 AM  
**Attachments:** [cummings on real estate capital gain.pdf](#)  
[image001.png](#)

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## The Captive Insurance Timeline: The Tide Turns for Taxpayers

[F. Hale Stewart](#) and [Beckett G. Cantley](#)

F. Hale Stewart is a partner at the Law Office of Hale Stewart in Houston. Beckett G. Cantley is a partner in the Atlanta Law Group, has served as a tax law professor since 2001 at several law schools, and is a frequent speaker and author on tax topics, including captive insurance companies.

After several courts held for the IRS in captive insurance cases and denied the deductibility of premium payments, taxpayers started winning. Those taxpayer victories validated captive insurance arrangements and showed that a diverse corporate structure could prevent application of the IRS's balance sheet theory.

\* \* \* \* \*

This is the second article in a series on captive insurance case law development. In our first article,<sup>1</sup> we reviewed early cases in which the IRS was able to successfully attack captive insurance structures using the economic family argument.<sup>2</sup> The IRS won despite the fact that the captive insurance structures were clearly formed by insured parties who otherwise had severe difficulty locating comparable insurance. The economic family argument outlined in Rev. Rul. 77-316 provided that a wholly owned insurance subsidiary could not provide insurance (as defined by the courts) to any company that was in the same "economic family." An economic family is similar to the concept of an affiliated group.

### The Balance Sheet Theory

After several attempts<sup>3</sup> at getting the courts to accept an IRS legal theory as a valid means to ignore the captive's separate corporate existence, the IRS eventually settled on the "balance sheet" theory. This theory applied if a parent corporation owned a 100 percent subsidiary captive insurance company, and the subsidiary captive insurance company made an indemnification payment to the parent. The IRS argued that the indemnification payment lowers the captive's book value by the payment amount, thereby lowering the parent company's value by the same amount (a 1-1 ratio).<sup>4</sup>

The IRS was able to convince multiple courts to accept the balance sheet theory as the means to decide in the IRS's favor. However, those IRS victories failed to address more complex ownership and insurance structures, such as a group of insured individuals owning the captive insurance company, or the captive insuring the risks of the parent and other "brother-sister" companies. Two later taxpayer victories explicitly addressed those issues.

## **The *Crawford Fitting* Case**

The taxpayer in *Crawford Fitting*<sup>5</sup> had a complex business structure with four manufacturing companies selling valves and fittings to four regional warehouses (named East, West, South, and Central) that sold products to independently owned distributors. Product liability insurance became prohibitively expensive, leading the companies to establish a subsidiary captive insurance company under Colorado law. Each regional distributor owned 20 percent of the captive with the remaining interests evenly distributed over four individuals who were executives of the parent company. Alexander & Alexander Inc., an insurance consulting company, established the premiums using actuarial information in the calculations. The IRS disallowed the deductions taken for premiums, and the parties ended up litigating the issue.

Unlike the ownership structures in the prior IRS victories, the *Crawford Fitting* captive was not a wholly owned subsidiary of the parent company; ownership resided with the four warehouses and several parent company executives. The IRS argued that those entities were in turn owned by individuals who directly owned Crawford, making the captive at least indirectly owned by the parent company. Thus, the IRS stated, the Crawford captive ownership structure should be treated no differently than in the prior captive cases the IRS had won. However, the court found that the actual separation was sufficient because "any gain or loss enjoyed or suffered by [the captive] does not affect the net worth of Crawford." The large amount of risk underwritten by the captive bolstered the court's reasoning; 70 percent of all the premiums were paid by:

Numerous companies that supply goods and services to the manufacturing companies, the 115 independent distributors of the Crawford products, the profit sharing trusts administered by Midwest Bank and Trust Company as well as A.P. Lennon, J.P. Lennon, C.L. Lozick and Edward Lozick.

Compared with the previous IRS victories, the diversity of risk added important transactional substance.

*Crawford Fitting* provided precedent for overcoming IRS objections to deductions for premium payments. Rather than creating the captive as a wholly owned subsidiary of the parent company, taxpayers could create and own a separate entity with the sole purpose of holding the captive shares (holding company). In the event of an indemnification payment, the holding company would be hit economically, but the parent company would be unharmed. Thus, the taxpayer's premium payments were deductible, even though ownership of the *Crawford Fitting* captive was only one step removed from direct parental ownership. And any indemnification payment against the captive generated an indirect loss to the parent company -- by harming the parent's shareholders and related companies. From the IRS's perspective, that indirect loss is still in the same economic family as the parent company.

## **The *Humana* Case**

As in *Crawford Fitting*, the Humana hospital chain formed its captive for legitimate business reasons. Humana's primary insurer informed the hospital chain three months before renewal that Humana's coverage would not be renewed.<sup>6</sup> The reasons for the non-renewal included (1) the increasing difficulty of planning for insurance payouts because of the

longer lead time between setting premiums and the eventual payment of claims, and (2) the rise in plaintiff's medical malpractice jury awards. From the insurer's perspective, it was easier to not issue the policy.

Fortunately, Humana was already considering its options. It was unacceptable for Humana to be uninsured, because of potentially catastrophic potential payouts. Self-insurance was unattractive because reserve contributions were not deductible. Pooling its risks with other hospitals was also unattractive because it could have exposed Humana to financially weaker pool participants. Forming a captive insurance company was the only viable business solution.

Humana formed a captive named Health Care Indemnity under Colorado law. The company was capitalized with \$1 million, which came from two sources: (1) \$250,000 from an offshore subsidiary and (2) \$750,000 from a letter of credit issued by the Humana parent company. Premiums were determined according to standard industry practice and documented via the issuance of standard insurance policies. Like Crawford, Humana's corporate organization was a parent company with several subsidiaries. The captive was a subsidiary of the parent company, and it underwrote the risks of the parent company and the subsidiaries. The parent company paid more than \$21 million in premiums over three years, covering 87 hospitals owned by 36 of its separate corporations.

Once again, the IRS challenged the deductibility of the premium payments made to the captive insurance company. At trial and retrial, the court distinguished between two types of indemnity payments: (1) those from the parent company to the captive and (2) those from the subsidiaries to the captives. The court held that the payments made by the parent company to the captive clearly fell within prior case law that disallowed deductions taken for those payments. The court held that the parent company's balance sheet was not relieved of the risk of loss, stating that "as a shareholder of a wholly owned insurance affiliate, the parent company bears the risk of loss sustained by the subsidiary, suffers losses sustained by the subsidiary and benefits from the gains realized by the subsidiary."<sup>7</sup> Thus, there was no substantive shifting of risk between the parent company and the captive.

While the taxpayer lost at the trial court level on the deductibility of both payment types, the Sixth Circuit decided against the IRS on the payments from the subsidiaries to the captive. The appeals court stated that the subsidiaries were not shareholders of the captive, so there was no direct loss sustained by the subsidiary when the captive made a payment. Hence, premium payments made by the subsidiaries were deemed deductible. As in *Crawford Fitting*, *Humana* shows the clear shortcoming of the IRS balance sheet theory as the basis for the economic family doctrine. In relying on share ownership, instead of a broader, more malleable legal theory, the IRS had sown the seeds of their loss. Taxpayers with a diverse corporate structure could prevent application of the balance sheet theory, and by extension the economic family doctrine.


## **Conclusion**

At its core, the economic family doctrine provided that even if a parent company established a captive insurance company for a viable business purpose, the captive should be disregarded for the deductibility of premium payments. The IRS sought to treat the captive as a reserve account on the parent company's balance sheet in the guise of a separate corporation. However, this argument ran directly counter to the *Moline*

*Properties*<sup>8</sup> doctrine, which stood for the proposition that a separate company established with a valid business purpose should be upheld as such. The IRS needed a well-articulated and decisive legal rationale<sup>9</sup> to overcome *Moline*, and it settled on the balance sheet theory.

The flaws in this theory were exposed in both *Crawford Fitting* and *Humana*. In *Crawford Fitting*, the taxpayer overcame the balance sheet theory by placing the captive ownership in a non-parent entity. This was extended by the *Humana* decision, in which premium payments made by a subsidiary were held deductible because those entities didn't own captive shares. Over time, the IRS's absolute prohibition on deductions for insurance premiums paid to a wholly owned insurance subsidiary have continued to run headfirst into the economic reality that companies form captives for valid business reasons.<sup>10</sup> Despite IRS objections, advisers saw captives as a viable option leading to their continual recommendation of the practice. As captive insurance has become a commonly accepted financial planning device, states have passed more captive insurance company enabling statutes.

## FOOTNOTES

<sup>1</sup> F. Hale Stewart, "The Captive Insurance Case Law Timeline: The IRS Victories," *Tax Notes*, Nov. 3, 2014, p. 567 .

<sup>2</sup> *Humana Inc. v. Commissioner*, 88 T.C. 197, 222-223 (1987) ("A reading of these cases shows that each of them, either explicitly or implicitly, has adopted the 'economic family' concept advanced by respondent in Rev. Rul. 77-316"); see also *Humana Inc. v. Commissioner*, 881 F.2d 247, 254 (6th Cir. 1989) ("The court cited for support cases resting on the economic family argument, looked only to the parent and stated that the 'risk of loss remains with the parent,' and thus there was no insurance. The Tenth Circuit in *Stearns-Roger v. United States*, 774 F.2d 414 (1985), rested its holding impliedly if not expressly on the economic family theory.").

<sup>3</sup> GCM 35340 (May 15, 1973) (hinting at an antiavoidance justification: "We do not propose to ignore any taxpayer's separate identity. Rather, the proposed ruling examines the transaction for its economic reality."); see also *Clougherty Packing Co. v. Commissioner*, 84 T.C. 948, 960 (1985) ("There are numerous situations in the tax law, both statutory and case law, where the separate nature of the entity is not disregarded but the transaction, as cast between the related parties, is reclassified to represent something else, e.g., reasonable compensation or dividend, loans or contributions to capital, loans or dividends, deposits or payments, or other recharacterization such as permitted under section 482, Internal Revenue Code of 1954, as amended").

<sup>4</sup> *Beech Aircraft Corp. v. United States*, No. Civ. 82-1369 (D. Kan. July 3, 1984), *aff'd*, 797 F.2d 920 (10th Cir. 1986).

<sup>5</sup> *Crawford Fitting Co. v. United States*, 606 F. Supp. 136 (N.D. Ohio 1985).

<sup>6</sup> *Humana Inc. & Subsidiaries v. Commissioner*, T.C. Memo. 1985-426, *opinion withdrawn* (May 7, 1986), *on reconsideration sub nom. Humana Inc. v. Commissioner*, 88 T.C. 197

(1987), *aff'd in part, rev'd in part*, 881 F.2d 247 (6th Cir. 1989).

<sup>7</sup> *Humana Inc. v. Commissioner*, 88 T.C. 197, 213 (1987).

<sup>8</sup> *Moline Properties v. Commissioner*, 319 U.S. 436 (1943).

<sup>9</sup> In the original memoranda developing this theory, the IRS hinted at a possible antiavoidance argument, while later cases hinted at a section 482 justification (see *supra* note 2) but failed to develop either theory in detail.

<sup>10</sup> *Ocean Drilling and Exploration Co. v. United States*, 24 Cl. Ct. 714, 715 (1991) ("Because of the limited experience in insuring the new rigs and a number of substantial losses on these rigs, insurance rates increased sharply"); *Kidde Industries Inc. v. United States*, 40 Fed. Cl. 42 (1977) ("In 1976, in the midst of a products liability insurance crisis in which many insurance companies either ceased or significantly restricted their coverage of products liability. . . . Travelers informed Kidde that it would not renew Kidde's products liability insurance policy for 1977."); *Malone and Hyde Inc. v. Commissioner*, T.C. Memo. 1989-604 ("By the mid-1970s, the Hyde Insurance Agency found that insurance premiums were increasing each year and certain insurance was not obtainable for some clients"); *Mobil Oil. Corp. v. United States*, 8 Cl. Ct. 555, 556 (1985) (After determining that "the outside insurance purchased by Mobil Overages was not bought efficiently," the company commissioned an internal report. "The Adams Report concluded the methods of Mobil Overseas and its affiliates of insuring against physical damage should be revised. The report states (in part): Mobil Overseas should . . . [f]orm an insurance affiliate to cover our risks where possible."); *Beech Aircraft Corp. v. United States*, No. Civ. 82-1369 (D. Kan. July 3, 1984), *aff'd*, 797 F.2d 920 (10th Cir. 1986) (Beech aircraft was sued for product liability. The company's insurance policy granted the insurer complete control of the attorneys used in litigation. Beech tried to remove counsel before trial, but the motion was denied. Beech formed the captive after it lost the case and a \$25 million judgment.).

## IRS Might Not Address Bitcoin Soon And That's Just Fine, Practitioners Say

By [Laura Davison](#)

March 18 — Tax treatment of virtual currencies like bitcoin might not make the IRS's priority guidance plan for the coming fiscal year as the agency faces budget cuts narrowing the number of projects it intends to address.

A lack of new guidance gives the Internal Revenue Service—and virtual currency users—more time to see how the emerging technology takes hold before regulating it, practitioners told Bloomberg BNA in March interviews.

"If I were the IRS, I would be very slow to provide guidance," Bob Derber, a tax attorney who advises clients on virtual currencies, told Bloomberg BNA. "The tiptoe has to do with an uncertainty about where the technology is going. They're charged with regulating a system that nobody understands yet." The Government Accountability Office, the IRS Taxpayer Advocate Service and some bitcoin users have been clamoring for the agency to provide more guidance about how it views virtual currency transactions as some taxpayers struggle to know if they are in compliance in how they are reporting income from their holdings.

### Previous Guidance

The IRS issued guidance (Notice 2014-21) last year saying that the government will treat virtual currencies, like bitcoin, as property for tax purposes, triggering capital gains for those who buy and sell cryptocurrencies ([58 DTR G-1, 3/26/14](#)).

This creates an overly burdensome process for holders who use digital currencies for everyday



purchases, many critics said.

"There's some fear we might get what we wished for," Derber said. "We are watching bitcoin take on new uses every day outside of the currency space."

Holders are finding uses for bitcoin beyond storing value and a medium of exchange, Derber said.

Some have used it as a token to prove ownership of a stock or valuable, and corporations have been experimenting using it as a way to transfer value within a firm.

More recently, the IRS issued its annual solicitation for public input about projects to address on the fiscal year 2016 priority guidance plan in Notice 2015-27 ([51 DTR G-5, 3/17/15](#)).

#### Demoted Priority Items

"Items with narrower impact will get demoted in priority, even if they are important questions with a specialty area," IRS Chief Counsel William Wilkins said March 6 at a Federal Bar Association Tax Law conference. The agency will focus on items that are "urgently needed" to make programs run and address tax abuses before they spread, or if they affect large swaths of taxpayers, he said ([51 DTR G-5, 3/17/15](#)).

The need to prioritize projects was underscored at a March 18 House Appropriations subcommittee hearing, where Republicans rebuffed IRS's request for an 18 percent budget increase, indicating the agency won't see a big boost in funding to expand the areas they can address (see [related story](#) in this issue).

Virtual currencies could easily fall behind higher importance items. About two-thirds of the American population isn't familiar with bitcoin, according to a monthly [survey](#) conducted by the Coin Center.

Fewer than 5 percent of respondents say they have used it at all.

Colin Mackie, a software engineer who founded a tool called [bitcoin.tax](#) that calculates liability, said he plans to submit a recommendation even though he doesn't anticipate guidance will come immediately.

#### Wish List

"We don't think anything is going to happen unless we push it," Mackie said. "We're trying to provide feedback, not take away tax income from the government. It's quite unclear in some cases what to do with" alternative coin transactions.

Clearer rules would lessen the need for a tool like Mackie's. He would like to see the IRS answer how to value virtual currencies that don't have a direct dollar market and how like-kind exchange rules apply to them. And like many in the bitcoin community, he would like regulators to revisit its decision to treat it as property.

Those involved with virtual currencies are decentralized and there isn't an established list of priority items.

"It's a very collaborative environment with open source as a foundation," Derber said. "How do you herd cats?"

Derber prefers legislative action to authorize the IRS to treat virtual currencies based on how they are used. In the meantime, temporary safe harbor provisions would make it possible for people to feel confident they are operating within the confines of the law.

#### Legitimacy Problem

Bitcoin is fighting a perception battle with regulators about the general public. About 46 percent of people in the Coin Center survey think that bitcoin is used more for criminal purposes than legitimate ones.

"It needs to be legitimate and not seen as a tax avoidance system," Mackie said. "We're trying to encourage people to treat it properly."

To do that, he says the rules need to be clear and make it possible for people to comply with them.

Bitcoin fell about 7.5 percent March 18 to around \$266, according to data compiled by Bloomberg. It is down 16.2 percent for the year.



**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Welsh Donna J](#); [Erwin Mark E](#); [Balacek Victoria](#)  
**Subject:** TNT bitcoin and BNA on registration required obligations  
**Date:** Thursday, March 26, 2015 7:04:07 AM  
**Attachments:** [image001.png](#)  
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## Bitcoin Guidance Not Designed to Answer All Questions

[William R. Davis](#)

Guidance released last year on the tax treatment of virtual currency transactions was meant to set out general tax principles rather than answer all questions, Andrew Keyso Jr., IRS associate chief counsel (income tax and accounting), said March 25.

On the anniversary of the IRS's first virtual currency guidance (Notice 2014-21, 2014-16 IRB 938 ) , Keyso explained during an American Bar Association Section of Taxation webcast that the notice was an "effort to dip our toe in the water." He went on to explain that the IRS wasn't attempting to establish a new taxation regime for virtual currencies. "Our view of this, to draw an analogy, is to treat it like bartering transactions," he said. (Prior coverage )

Notice 2014-21, issued in March 2014, stated that virtual currencies such as bitcoin should be treated as property. Keyso said the IRS grappled with treating virtual currencies as currency under the tax code but decided against it because the Service had difficulty with that treatment under federal law. Bitcoin isn't issued by a government, isn't legal tender in the United States, and isn't a widely used medium of exchange, he said. "In our view, bitcoin was more held for speculation and not for commerce," Keyso said.

Despite the guidance, many questions remain. The ABA tax section on March 24 delivered comments  to the IRS and Treasury regarding the tax treatment of virtual currencies. An issue addressed in both the comment letter and webcast was how to track gain and loss in virtual currency transactions.

Under the IRS's view, a taxpayer would have to track basis and recognize a gain or loss on all virtual currency transactions for goods and services, regardless of how small.

"I think that is one of the biggest challenges of bitcoin," said Bryan C. Skarlatos of Kostelanetz & Fink LLP. Some questions that arise are how to track each transaction; which bitcoin was used; what the basis in the bitcoin was; and what the fair market value was at the time of the exchange, he said.

In considering whether to treat virtual currency as property or currency, the IRS recognized that a consequence of treating it as foreign currency would be that [section 988\(e\)](#) could apply, Keyso said. Section 988(e) provides a de minimis exception from recognizing gain or loss on foreign currency personal transactions of \$200 or less. The IRS, however, didn't think it had the authority to apply the currency rules to virtual currency, he said.

Both Skarlatos and Keyso said they are confident that there are solutions to these issues because some services are already available online to track bitcoin transactions.

## **No Effective Date**

Keyso said that when the IRS issued the bitcoin guidance, taxpayers often asked if there was an effective date for it. He said the notice indicates that it reflects the IRS's view of past virtual transactions as well as future ones.

Kathryn Keneally of DLA Piper said the IRS guidance is similar to the interpretive guidelines from the Financial Crimes Enforcement Network, which said that an "administrator" or "exchanger" of digital currency is a financial institution and is subject to the Bank Secrecy Act. The FinCEN guidance, like the IRS guidance, was a statement of how the government is interpreting the law, she said.

## **FBAR and FATCA**

There still isn't an answer on whether taxpayers are required to disclose a bitcoin account for foreign bank account report purposes. Under FBARs, taxpayers must disclose a financial interest in, or signatory authority over, foreign financial account holdings over \$10,000.

Although no guidance has been issued on that matter, a recent case, *United States v. Hom*, No. C 13-3721 WHA (N.D. Cal. June 2014), provides possible clarification on the issue. In *Hom*, the court held on a motion for summary judgment in a civil FBAR case that online gambling accounts are foreign financial accounts subject to FBAR reporting.

"I think for the [Justice Department] and FinCEN, this is a very short analytical step to saying that at least certain holdings of virtual currency are similarly subject to the FBAR requirement," Peter D. Hardy of Post & Schell PC said. Although it seems that some holdings are subject to FBAR reporting, there is still a question about where the currencies are stored, he said.

The Foreign Account Tax Compliance Act requires some foreign financial institutions to report their U.S. account holders to the IRS or face withholding taxes. Whether online holders of virtual currencies qualify as financial institutions for FATCA purposes remains an unsettled question, according to Skarlatos.

Skarlatos said that given the recent *Hom* decision, it would be possible for the government to take the position that some third-party holders of virtual currencies are financial institutions. "I think there is an open question but a real chance that they are financial institutions," he said.

## **Subject to Form 8300 Reporting?**

Form 8300, "Report of Cash Payments Over \$10,000 Received in a Trade or Business," requires a taxpayer to report the receipt of more than \$10,000 in a trade or business and is a function of the IRC and the Bank Secrecy Act. For purposes of the form, currency is defined as coins or currency of the United States or any other country, and instruments such as cashier checks and money orders.

Keyso said he believes that virtual currencies don't fit the definition of currency for purposes of the regime, and therefore, receipt of virtual currencies in a trade or business isn't subject to Form 8300 reporting.

## Tax Section Asks IRS to Clarify, Expand Guidance on Debt Registration Substitutes

March 25 — Guidance offered by the IRS in a recent private letter regarding registration requirements for debt instruments under tax code Section 163 should be expanded, according to a New York State Bar Association Tax Section letter submitted to the IRS and Treasury Department.

Long-standing Treasury Regulations Section 1.163-5T(d) allows investors to meet the portfolio interest exemption registration requirement for consumer debt and privately negotiated loans using “pass-through certificates” in registered form, the [letter](#) said. [PLR 201504004](#) resolves an ambiguity in the language of the regulations in ruling that such certificates meet registration requirements although issued in an arrangement that doesn’t qualify for tax purposes as a grantor trust, David R. Sicular, chairman of the section, said in the March 25 letter.

Sicular said that, unlike the PLR, the formal guidance requested from the Internal Revenue Service could be relied on by taxpayers.

### Taxpayer Reliance

“We believe the issue resolved in the ruling is one that is faced by many taxpayers and is thus commercially significant,” the letter said. “Issuing guidance that can be relied on by taxpayers will limit the need for other taxpayers to seek similar private letter rulings, using up scarce IRS and taxpayer resources.”

The private letter ruling, dated Oct. 3, 2014, was released by the IRS in January ([16 DTR K-3.1/26/15](#)).

The Tax Section letter noted that the group advocated its interpretation of the regulation in a 2002 report on securitization reform measures.

“As indicated in the 2002 Report, we agree with that reading as a policy matter, but it is certainly not compelled by the language of the regulation. Accordingly, a taxpayer relying on the reasoning and holding of the 2014 PLR is taking a risk that the IRS will change its mind,” the letter said. “The stakes are very high, namely the potential imposition of a 30 percent withholding tax on interest paid to foreign investors.”

### Broader Recommendation

In addition to asking that the IRS issue some form of guidance consistent with the PLR, the Tax Section proposed an alternative mechanism to allow consumer and privately negotiated loans to be treated as obligations in registered form when they are held through a book-entry system, regardless of whether it is set up by investors, third parties or the issuer.

“Our broader recommendation is that the Service and Treasury create a more straightforward mechanism that would allow investors owning debt instruments in bearer form that are not registration-required obligations to treat the instruments as being in registered form,” the letter said. Under the recommendation, it wouldn’t be necessary to establish that the underlying debt is “locked up” in such an arrangement over its life, the letter said.


“Interest on an obligation would qualify for the portfolio interest exemption only for periods in which it is held through the proposed book entry system. If an obligation were removed from the system, it would return to the state it was in before being held through the system,” it said. “Thus, the portfolio interest exemption would no longer apply and the instrument could continue to be held in bearer form without tax sanctions.”

**From:** [Blanchard William E](#)  
**To:** [Dubert Alexa T](#); [Rogers John W III](#); [Fahey Douglas A](#); [Welsh Donna J](#); [Erwin Mark E](#)  
**Subject:** TNT bitcoin article  
**Date:** Tuesday, September 23, 2014 7:31:29 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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## ABA Meeting: IRS Preps Bitcoin Investigators as Treatment Questions Remain [David D. Stewart](#)

Bitcoin is only pseudo-anonymous. Its block chain records each transaction in a public ledger. "Bitcoin is nowhere near as anonymous as cash," Bryan Skarlatos of Kostelanetz & Fink said September 20, "but the trick here is that bitcoin can be zapped around much easier than cash."

At a Civil and Criminal Tax Penalties session of the American Bar Association Section of Taxation meeting in Denver, IRS officials warned that investigators are improving their ability to track virtual currency transactions to determine if they are being used for "bad purposes," even as they acknowledged that important questions have not yet been addressed in published guidance. (Prior coverage )

Rebecca Sparkman, director (operations policy and support), IRS Criminal Investigation division, emphasized that using virtual currencies is not inherently wrong and is no different from using cash or gold, but added that the government is getting more sophisticated in tracking transactions in which the currencies are being used improperly.

"There is nothing illegal about virtual currency, cryptocurrency, bitcoin, just like there is nothing illegal about currency in cash. It is how you use it and when you use it for bad purpose -- that is when Criminal Investigation comes in, or if you decide not to report it on your tax return," said Sparkman.


Sparkman noted that because bitcoin transactions are recorded in the public block chains, investigators have been able to trace them back all the way to their origins. She said that the one difficulty that remains is in breaking the passwords used to protect the private encryption keys that grant control over the coins themselves, but that it can be done, or the government may gain access through a cooperative party.

"It is not really anonymous, and we actually have suspicious activity reports being filed on these and we are able to trace them back to the inception of the bitcoin -- every place it has ever touched," Sparkman said.

According to Sparkman, while current investigations into bitcoin activity are focused on money laundering, future ones will likely consider questions of tax evasion. "We are gearing up for the criminal investigations on the tax side and that is what the criminal investigators are being trained in," Sparkman said. "The question is: Is virtual currency the next tax haven?"

Sparkman said that while the question remains open, CI is monitoring the situation, and practitioners should watch for the investigations that will be coming.

Andrew Keyso Jr., IRS associate chief counsel (income tax and accounting), noted that in

Notice 2014-21, 2014-16 IRB 938 , Treasury and the IRS made clear that bitcoins would be treated as property and not as currency. Keyso acknowledged a lack of international uniformity of treatment, but an audience member noted that no government currently recognizes bitcoin as a currency.

Keyso said that a primary question on the notice is why bitcoin cannot be treated as currency in order to eliminate issues such as the creation of gain recognition events for each small purchase transaction. He said that the IRS had considered foreign currency treatment under section 988, which would have allowed for the nonrecognition of de minimis gains for individuals.

"I think we just were not able to get there under current law that this is a currency," Keyso said. "It is not legal tender, it is not a widely circulated or widely used medium of exchange, at least at this point, and the office just was not comfortable treating it as a currency at this point in time."

Asked whether the IRS and Treasury considered the treatment of bitcoin adopted by other countries, Keyso said that the only considerations were on the treatment under the Internal Revenue Code and consistent with Treasury's Financial Crimes Enforcement Network. "We really have not felt any need to be consistent with other countries and what they are doing," he said.

Steven M. Rosenthal of the Urban Institute said that given Treasury and the IRS's position, a person who uses bitcoin exclusively for consumption will be required to recognize their gains, but would be denied deductions for any losses because the transaction was not entered into for profit as required by section 165(c)(2). Rosenthal suggested that bitcoin can function as an investment, but cannot be used as a medium of exchange until it is treated as a currency.

Keyso responded that Treasury and the IRS were aware of the issues with the treatment, but that it was not possible to treat bitcoin as a currency. He noted that the guidance also does not address many issues, including cost flow assumptions and questions involving the Foreign Account Tax Compliance Act and foreign bank account reporting.

"I think some of those issues require further thought. We also want to see a bit how the use of virtual currencies evolves and take the process step by step, and [the notice] was intended to get out very basic fundamental principles requesting comments from the public on what would be helpful next steps on this," Keyso said.

Bitcoin custodians that hold accounts are money transmitters under federal law, while foreign custodians could be foreign financial institutions. Asked whether virtual currency intermediaries should be subject to FATCA requirements, Keyso said the government is aware of the issue but does not yet have a "published position" on the question.

Scott D. Michel of Caplin & Drysdale asked whether bitcoin was a cash equivalent for purposes of the Form 8300 report on cash payments over \$10,000.

"From our perspective, that is one more issue that we will have to give further thought to," responded Keyso.

*Lee A. Sheppard contributed to this article.*

**From:** [Welsh Donna J](#)  
**To:** [Erwin Mark E](#); [Shelburne Anne P](#); [Vo My V](#); [Jensen Steven D](#); [Blanchard William E](#); [Rogers John W III](#); [Camillo Lynne A](#); [Shepherd Neil D](#); [Fahey Douglas A](#); [Aqui Keith A](#); [Cottrell Mark E](#); [Hall Charles A](#); [Prasad Girish](#); [Griffin Adrienne E](#); [Dubert Alexa T](#); [Berman Samuel](#); [Warren Brinton T](#); [Dwyer Sean M](#); [Richards John B](#); [Tackney Stephen B](#)  
**Cc:** [Cook Janine](#); [Keyso Jr. Andrew J](#); [Montemurro Michael J](#); [Welsh Donna J](#)  
**Subject:** Virtual Currency Draft FAQs --Treasury's version  
**Date:** Wednesday, January 29, 2014 12:44:09 PM  
**Attachments:** [Bitcoin Notice 1-29-14.docx](#)

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Hi everyone, Here are Treasury's changes to our FAQs in a clean-read version. Because of the high profile nature of the questions and the need for more formal guidance, Treasury has converted our FAQs into a Notice to be published in the IRB. Erik Corwin and Treasury would like to get this out quickly because nearly every day there is news article discussing the unanswered issues surrounding virtual currency.

I am going to schedule a meeting next Wednesday, 2/5/14, for the Associate Offices to discuss Treasury's comments. Ideally, I would like to provide Treasury with our combined comments on Friday, 2/7/14. We need to add contact information for TEGE, PA, and FIP, so please let me know who your office's contact is and their Branch's general phone number.

Thanks to all for your hard work on this novel project.

Donna

**From:** [Warren Brinton T](#)  
**To:** [Cook Janine](#)  
**Cc:** [Keyso Jr. Andrew J](#); [Warren Brinton T](#); [Fahey Douglas A](#); [Welsh Donna J](#); [Aqui Keith A](#)  
**Subject:** virtual currency FAQ briefing plan  
**Date:** Wednesday, September 18, 2013 12:21:07 PM

---

Hi Janine,

Donna and I were able to confer briefly with Andy to firm up our plans. Once we have the FAQs completed by the cross-divisional working group (now under a September 30 deadline), we expect that we will then set up an hour on Erik Corwin's calendar to discuss. We are happy to include you and any other TEGE participants in what we set up, if you will let us know whom to include. We tentatively expect that our time with Erik would fall on the dates of October 3, 4, or 7<sup>th</sup>, ahead of when these are due to Alice Ronk (October 15<sup>th</sup>).

I hope this information is helpful. Please do not hesitate to contact me with questions or to clarify things. Thanks

Brinton T. Warren  
Special Counsel to the Associate Chief Counsel  
Income Tax and Accounting  
(202) 622-7367

*New Phone Number Starting October 2013: (202) 317-6314*

[Brinton.T.Warren@irscounsel.treas.gov](mailto:Brinton.T.Warren@irscounsel.treas.gov)



**From:** [Welsh Donna J](#)  
**To:** [Hodes Rochelle - OTP](#)  
**Cc:** [Ronk Alice L](#); [Berman Samuel](#); [Fahey Douglas A](#); [Aqui Keith A](#); [Welsh Donna J](#)  
**Subject:** Virtual Currency FAQs  
**Date:** Monday, January 06, 2014 2:08:01 PM

---

Hi Rochelle, Happy New Year!

I am just checking in on the status of the FAQs to ask when we might have Treasury's comments. I know that you are working hard to keep it moving, and we appreciate your help.

Take care,  
Donna

**From:** [Blum Steven H](#)  
**To:** [Fahey Douglas A](#); [Moriarty John P](#)  
**Cc:** [Shuman Lisa J](#)  
**Subject:** Virtual Currency Notice - question from Heather  
**Date:** Wednesday, February 26, 2014 6:23:57 AM

---

Hi John and Doug.

Linda Kroening got a question from Heather Maloy on this notice. She asked us to check with you for anything you can tell us.

She said that

[REDACTED]

(b)(5)

[REDACTED]

(b)(5)

I know you are trying to clear this quickly, so if it would help to discuss today, please let me know and I can arrange a brief call.

Thank you for any help you can provide.

Regards,

Steve Blum  
(202) 515-4404

**From:** [Fahey Douglas A](#)  
**To:** [Agui Keith A](#); [Shepherd Neil D](#); [Griffin Adrienne E](#); [Stahl Raymond J](#)  
**Cc:** [Welsh Donna J](#); [Burns Gregory](#); [Cook Janine](#); [Prasad Girish](#); [Hall Charles A](#); [Erwin Mark E](#); [Ronk Alice L](#); [Berman Samuel](#); [Dubert Alexa T](#); [Blanchard William E](#); [Tackney Stephen B](#)  
**Subject:** Virtual currency notice  
**Date:** Tuesday, March 25, 2014 11:57:59 AM  
**Attachments:** [Notice 2014-21 3-25-14 CLEAN.docx](#)

---

Just wanted to give everyone a head's up that the virtual currency notice is scheduled for release around 2:00 today. Those of you on the To: line may experience a spike in phone calls since you are listed in the drafting information. Media Relations is also expecting a lot of calls, and plans to ask for our assistance in responding to calls they are not comfortable handling.

**Doug Fahey**  
**202.317.4619**

**From:** Fahey Douglas A  
**To:** Welsh Donna J; Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aquil Keith A; Ronk Alice L; Burns Gregory; Berman Samuel; Milnes-Vasquez Marie C  
**Cc:** Keyso Jr. Andrew J; Moriarty John P  
**Subject:** Virtual currency notice  
**Date:** Monday, February 24, 2014 1:17:07 PM  
**Attachments:** Bitcoin Notice 2-24-14.docx

---

Attached is a revised version of the draft notice that incorporates comments received on the greensheet circulation, adding them to that draft. Please review and let me know if anything was overlooked, screwed up etc. I've included comments about some of the more significant revisions, including a few with questions. Your thoughts on any of those comments are welcome. [REDACTED]  
[REDACTED] I know that is one of ITA's, but let me know if you have any reaction to that as well.

(b)(5)

(b)(5)

We're still shooting for release by the end of this week, and I would like to send the next draft to Treasury by COB today. I would appreciate receiving comments by then, if at all possible. Thanks.

Doug Fahey  
**NEW PHONE 202-317-4619**

**From:** [Blanchard William E](#)  
**To:** [&FIPLegal](#); [Walli Karl - OTP](#); [Novey Michael - OTP](#); [Guiliano Vincent J](#); [Milnes-Vasquez Marie C](#); [Brickates Lewis K](#); [Colson Faith P](#); [Balacek Victoria](#); [Erwin Mark E](#); [Welsh Donna J](#)  
**Subject:** WSJ articles on bitcoin fund and bond etfs and TNT letter on tax-exempt bonds  
**Date:** Monday, March 02, 2015 7:59:49 AM

---

## BIT Poised to Become Publicly Traded Bitcoin Fund

Fund has been racing against rival offering from Cameron and Tyler Winklevoss

By Michael J. Casey  
Updated March 1, 2015 5:04 p.m. ET

Barry Silbert's Bitcoin Investment Trust is poised to become the first publicly traded bitcoin fund, with approval and assignment of a ticker symbol by the financial industry's main self-regulatory body paving the way for trading on an electronic platform operated by OTC Markets Group.

The BIT, which was first launched in 2013 as a private fund for accredited investors with annual incomes greater than \$200,000

## Institutions Pour Cash Into Bond ETFs

Move to exchange-traded funds comes as big investors deal with bond-trading challenges

By Katy Burne  
March 1, 2015 6:02 p.m. ET

Institutions are piling into exchange-traded bond funds at the fastest pace on record, driven by forces reshaping the increasingly illiquid corporate-debt market and their desire to stay nimble ahead of expected interest-rate moves.

Bond ETFs took in \$32 billion globally this year through Feb. 26, according to data from Bloomberg LP, in what has been the strongest start to any year since the funds began in 2002.

More than half...

## Municipal Bond Coalition Urges Against Reversing Bond Exemption

February 26, 2015

Senator Dean Heller  
Senator Michael F. Bennet  
Community Development & Infrastructure Tax Reform Working  
Group Committee on Finance  
United States Senate

219 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Heller and Chairman Bennet:

As you weigh policy alternatives to improve the nation's federal income tax system as it relates to community development and infrastructure, we, the undersigned members of the Municipal Bonds for America Coalition (MBFA), write in strong support of the current law tax-treatment of municipal bonds.

State and local governments build the vast majority of our nation's core infrastructure: the roads, highways, and bridges; public transportation; seaports and marine terminals; airports; water and wastewater facilities; schools; acute care hospitals; multi-family housing; libraries; parks; town halls; electric power and natural gas facilities and supply for publicly-owned utilities; and other public projects that make commerce possible and our communities livable. Tax-exempt municipal bonds are how we finance these investments. In fact, tax-exempt municipal bonds financed \$1.7 trillion in new infrastructure investments in the last decade.

It is no exaggeration to say that bonds build America.

Interest paid on a municipal bond is generally exempt from federal income tax (just as interest paid on Treasury bonds is exempt from state and local tax). This exemption dates to the 1800s and was incorporated into the modern income tax when it was created in 1913. Qualified private activity bonds are a type of municipal bond that finances certain qualifying public-private projects or other qualifying uses, such as state-based student loan programs. Interest on qualified private activity bonds is exempt from the federal income tax, but subject to the Alternative Minimum Tax.

The financial strength of bond issuers coupled with the stability of the bond market and the federal tax exclusion of bond interest reduce borrowing costs for state and local governments. Projects financed with municipal bonds over the last decade cost \$495 billion less than if they had been financed with taxable debt. Lower borrowing costs for bond-financed projects allow for greater investment, reduce tax and utility rates for residents, and help create jobs and economic growth. Alternatives to bond financing exist, but each has substantial shortcomings, predominantly increased cost of borrowing. So, while these could supplement bond financing, they could never replace bond financing.

Generally, bonds are approved by voter referendum or an affirmative vote of a governmental body (a city council, county council, utility board, or the like) and principal and interest on these bonds are paid by state and local residents. As a result, while the federal debt continues to grow, state and local debt has remained stable. Moreover, the 40-year default rate for municipal bonds is 0.13 percent (by comparison the 40-year default rate for comparably-rated corporate bonds is 11 percent).

Finally, about 72 percent of bond interest is paid to individuals, either directly or through mutual funds and similar investment vehicles. About 60 percent of household bond income goes to investors over the age of 65; and about half of household bond income goes to investors with incomes of less than \$250,000. Households purchase bonds because of the stability of the municipal bond market and the safety of the investment. The federal exemption of municipal bond interest protects this income from federal tax. However,

investors accept a lower rate of return on these bonds in exchange for the benefit of the tax exemption -- reducing or eliminating any tax "windfall." The 28 percent of bond interest that isn't paid to households is paid to U.S. businesses, indirectly benefiting American households by providing a steady and safe source of income to property & casualty and life insurance companies.

In conclusion, state and local governments have issued municipal bonds for centuries to help build our communities and our economy; municipal bonds are a safe, reliable, and stable investment for millions of Americans; and, just as state and local governments should not -- and could not -- shift their costs by taxing federal bonds, the federal government should not try to shift its costs to state and local governments -- and our state and local residents -- by imposing an unprecedented tax on municipal bonds.

We welcome the opportunity to discuss this issue further, including opportunities to simplify and improve the tax code's treatment of municipal bonds. For more information please contact Steve Benjamin, Mayor of the City of Columbia, South Carolina, and MBFA Chairman, at [skbenjamin@columbiasc.net](mailto:skbenjamin@columbiasc.net).

Sincerely,

American Public Gas Association

American Public Power Association

American Public Transportation Association  
Airports Council International -- North America

African American Mayors Association  
Bond Dealers of America

Council of Development Finance Agencies

Education Finance Council

Large Public Power Council

National Association of Bond Lawyers

National Association for County Community and Economic Development

National Association of Local Housing Finance Agencies

National Council of State Housing Agencies

Southern California Public Power Authority

Cc:

Senator Dan Coats

Senator Maria Cantwell

Senator Tim Scott

Senator Bill Nelson

**From:** [Keyso Jr. Andrew J](#)  
**To:** [Fahey Douglas A](#); [Welsh Donna J](#)  
**Cc:** [Moriarty John P](#)  
**Subject:** WSJ  
**Date:** Thursday, April 03, 2014 8:21:55 AM

---

Well, I see from the WSJ print edition this morning that

(b)(5)

(b)(5)

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax and Accounting  
202-317-4625



**From:** [Fahey Douglas A](#)  
**To:** [Aqui Keith A](#); [Welsh Donna J](#)  
**Cc:** [Keyso Jr. Andrew J](#)  
**Subject:** Yet another Bitcoin exchange implodes: Vircurex will freeze accounts tomorrow | VentureBeat | Security | by Harrison Weber  
**Date:** Monday, March 24, 2014 4:45:08 PM

---

The loss issue is becoming more wide-spread.

<http://venturebeat.com/2014/03/23/yet-another-bitcoin-exchange-implodes-vircurex-will-freeze-accounts-tomorrow/>

**From:** [Aqui Keith A](#)  
**To:** [Haynes Joseph](#)  
**Subject:** Your Question  
**Date:** Wednesday, February 25, 2015 1:53:10 PM

---

Was forwarded to Adrienne Griffin and Joe Stahl because of the subject matter. See Notice.

## **Stahl Raymond J**

**From:** Erwin Mark E  
**Sent:** Thursday, February 20, 2014 12:38 PM  
**To:** Stahl Raymond J  
**Subject:** RE: Bitcoin

Can you revise and add to this?

(b)(5)

-----Original Message-----

**From:** Brian.Jenn@treasury.gov [mailto:Brian.Jenn@treasury.gov]  
**Sent:** Thursday, February 20, 2014 11:51 AM  
**To:** Stahl Raymond J; Erwin Mark E; Jensen Steven D  
**Subject:** FW: Bitcoin

(b)(5)

-----Original Message-----

**From:** Fahey Douglas A [mailto:Douglas.A.Fahey@irsounsel.treas.gov]  
**Sent:** Thursday, February 20, 2014 11:45 AM  
**To:** Hodes, Rochelle; Jenn, Brian; Walli, Karl; Welsh, Donna J; Keyso Jr., Andrew J  
**Cc:** Stahl, Raymond J; Erwin, Mark E; Jensen, Steven D  
**Subject:** RE: Bitcoin

Looping in our INTL folks so they can participate.

Doug Fahey  
NEW PHONE 202-317-4619

-----Original Message-----

**From:** Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
**Sent:** Thursday, February 20, 2014 11:40 AM  
**To:** Jenn Brian; Karl.Walli@treasury.gov; Welsh Donna J; Fahey Douglas A; Keyso Jr. Andrew J  
**Subject:** RE: Bitcoin

-----Original Message-----

From: Jenn, Brian

Sent: Thursday, February 20, 2014 11:39 AM

To: Hodes, Rochelle; Walli, Karl; Welsh, Donna J; Fahey, Douglas A; Keyso Jr., Andrew J

Subject: RE: Bitcoin

If we can agree on language, I expect she'll be ok with that. I haven't run it by her yet; she's been swamped.

-----Original Message-----

From: Hodes, Rochelle

Sent: Thursday, February 20, 2014 11:14 AM

To: Jenn, Brian; Walli, Karl; Welsh, Donna J; Fahey, Douglas A; Keyso Jr., Andrew J

Subject: RE: Bitcoin

Brian, what does Danielle think?

-----Original Message-----

From: Jenn, Brian

Sent: Thursday, February 20, 2014 11:00 AM

To: Walli, Karl; Hodes, Rochelle; Welsh, Donna J; Fahey, Douglas A; Keyso Jr., Andrew J

Subject: RE: Bitcoin

-----Original Message-----

From: Walli, Karl

Sent: Thursday, February 20, 2014 10:55 AM

To: Hodes, Rochelle; Welsh, Donna J; Jenn, Brian; Fahey, Douglas A; Keyso Jr., Andrew J

Subject: RE: Bitcoin

-----Original Message-----

From: Hodes, Rochelle

Sent: Thursday, February 20, 2014 10:52 AM

To: Welsh, Donna J; Jenn, Brian; Walli, Karl; Fahey, Douglas A; Keyso Jr., Andrew J

Subject: RE: Bitcoin

I can live with it (but need to confirm with TFI)--Karl?

-----Original Message-----

From: Welsh Donna J [mailto:Donna.J.Welsh@irscounsel.treas.gov]

Sent: Thursday, February 20, 2014 10:47 AM

To: Jenn, Brian; Hodes, Rochelle; Walli, Karl; Fahey, Douglas A; Keyso Jr., Andrew J

Subject: RE: Bitcoin

## **Stahl Raymond J**

---

**From:** Erwin Mark E  
**Sent:** Thursday, February 20, 2014 11:57 AM  
**To:** Jenn Brian; Stahl Raymond J; Jensen Steven D  
**Subject:** RE: Bitcoin

Yes, we'll compose a reply and chime in to the email chain.

-----Original Message-----

From: Brian.Jenn@treasury.gov [mailto:Brian.Jenn@treasury.gov]  
Sent: Thursday, February 20, 2014 11:51 AM  
To: Stahl Raymond J; Erwin Mark E; Jensen Steven D  
Subject: FW: Bitcoin

(b)(5)

-----Original Message-----

From: Fahey Douglas A [mailto:Douglas.A.Fahey@irs.counsel.treas.gov]  
Sent: Thursday, February 20, 2014 11:45 AM  
To: Hodes, Rochelle; Jenn, Brian; Walli, Karl; Welsh, Donna J; Keyso Jr., Andrew J  
Cc: Stahl, Raymond J; Erwin, Mark E; Jensen, Steven D  
Subject: RE: Bitcoin

Looping in our INTL folks so they can participate.

Doug Fahey  
NEW PHONE 202-317-4619

-----Original Message-----

From: Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
Sent: Thursday, February 20, 2014 11:40 AM  
To: Jenn Brian; Karl.Walli@treasury.gov; Welsh Donna J; Fahey Douglas A; Keyso Jr. Andrew J  
Subject: RE: Bitcoin

(b)(5)

-----Original Message-----

From: Jenn, Brian  
Sent: Thursday, February 20, 2014 11:39 AM  
To: Hodes, Rochelle; Walli, Karl; Welsh, Donna J; Fahey, Douglas A; Keyso Jr., Andrew J  
Subject: RE: Bitcoin

If we can agree on language, I expect she'll be ok with that. I haven't run it by her yet; she's been swamped.

-----Original Message-----

From: Fahey Douglas A [mailto:Douglas.A.Fahey@irs.counsel.treas.gov]  
Sent: Thursday, February 20, 2014 9:57 AM  
To: Keyso Jr., Andrew J; Hodes, Rochelle; Welsh, Donna J  
Subject: RE: Bitcoin

(b)(5)

Doug Fahey  
NEW PHONE 202-317-4619

-----Original Message-----

From: Keyso Jr. Andrew J  
Sent: Thursday, February 20, 2014 8:55 AM  
To: rochelle.hodes@treasury.gov; Fahey Douglas A; Welsh Donna J  
Subject: FW: Bitcoin

Doug, Donna, have we heard anything yet in response to the greensheet circulation?

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

-----Original Message-----

From: Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
Sent: Thursday, February 20, 2014 8:34 AM  
To: Keyso Jr. Andrew J  
Subject: Re: Bitcoin

Hi. Have folks provided comments? If so, are there any show stoppers?

## **Stahl Raymond J**

---

**From:** Fahey Douglas A  
**Sent:** Thursday, February 20, 2014 11:45 AM  
**To:** Rochelle.Hodes@treasury.gov; Jenn Brian; Karl.Walli@treasury.gov; Welsh Donna J; Keyso Jr. Andrew J  
**Cc:** Stahl Raymond J; Erwin Mark E; Jensen Steven D  
**Subject:** RE: Bitcoin

Looping in our INTL folks so they can participate.

Doug Fahey  
NEW PHONE 202-317-4619

-----Original Message-----

From: Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
Sent: Thursday, February 20, 2014 11:40 AM  
To: Jenn Brian; Karl.Walli@treasury.gov; Welsh Donna J; Fahey Douglas A; Keyso Jr. Andrew J  
Subject: RE: Bitcoin

I think [REDACTED]

(b)(5)

[REDACTED] Thanks!

(b)(5)

-----Original Message-----

From: Jenn, Brian  
Sent: Thursday, February 20, 2014 11:39 AM  
To: Hodes, Rochelle; Walli, Karl; Welsh, Donna J; Fahey, Douglas A; Keyso Jr., Andrew J  
Subject: RE: Bitcoin

If we can agree on language, I expect she'll be ok with that. I haven't run it by her yet; she's been swamped.

-----Original Message-----

From: Hodes, Rochelle  
Sent: Thursday, February 20, 2014 11:14 AM  
To: Jenn, Brian; Walli, Karl; Welsh, Donna J; Fahey, Douglas A; Keyso Jr., Andrew J  
Subject: RE: Bitcoin

Brian, what does Danielle think?

-----Original Message-----

From: Jenn, Brian  
Sent: Thursday, February 20, 2014 11:00 AM  
To: Walli, Karl; Hodes, Rochelle; Welsh, Donna J; Fahey, Douglas A; Keyso Jr., Andrew J  
Subject: RE: Bitcoin

[REDACTED] (b)(5)

From: Keyso Jr. Andrew J  
Sent: Thursday, February 20, 2014 8:55 AM  
To: rochelle.hodes@treasury.gov; Fahey Douglas A; Welsh Donna J  
Subject: FW: Bitcoin

Doug, Donna, have we heard anything yet in response to the greensheet circulation?

Andrew J. Keyso  
Associate Chief Counsel  
Income Tax & Accounting  
202-317-4625

-----Original Message-----

From: Rochelle.Hodes@treasury.gov [mailto:Rochelle.Hodes@treasury.gov]  
Sent: Thursday, February 20, 2014 8:34 AM  
To: Keyso Jr. Andrew J  
Subject: Re: Bitcoin

Hi. Have folks provided comments? If so, are there any show stoppers?



Both changes, along with two minor nits, are shown in track changes in the attached doc.

We'd be happy to discuss this.

Kind regards,  
Ray

<< File: Bitcoin Notice 2-19-14 ACCI Comments.docx >>

---

**From:** Welsh Donna J

**Sent:** Wednesday, February 19, 2014 2:46 PM

**To:** Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqai Keith A; Ronk Alice L; Fahey Douglas A; Welsh Donna J

**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Hi Everyone, Treasury insisted on putting back in a lot of the Preamble. Also, they did not want to address money and services in Q&A5. Otherwise, I think the Q&As are good to go.

---

**From:** Fahey Douglas A

**Sent:** Friday, February 14, 2014 1:13 PM

**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Subject:** Greensheet Circulation - Notice on Virtual Currencies

EXPEDITED REVIEW REQUESTED

Attached is a proposed notice that provides guidance in a Q&A format on some of the tax consequences arising from transactions using virtual currencies, including Bitcoin. The notice is targeted for release by the end of this month, so please submit any comments to me no later than COB Friday 2/21/14.

<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey  
NEW PHONE 202-317-4619

## **Stahl Raymond J**

---

**From:** Musher Steven A  
**Sent:** Thursday, February 20, 2014 6:06 AM  
**To:** Stahl Raymond J; Rollinson Marjorie; McCall Daniel M; Bello Christopher J  
**Cc:** Erwin Mark E; Jensen Steven D  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Ray – thanks for this great followup!

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, February 19, 2014 4:44 PM  
**To:** Musher Steven A; Rollinson Marjorie; McCall Daniel M; Bello Christopher J  
**Cc:** Erwin Mark E; Jensen Steven D  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

All –

(b)(5)

Kind regards,  
Ray

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, February 19, 2014 4:27 PM  
**To:** Welsh Donna J  
**Cc:** Erwin Mark E; Jensen Steven D; Jenn Brian  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi Donna –

After discussing the Notice with our front office and Brian Jenn (cc'd) at Treasury, we have two proposed edits:

- 

(b)(5)

Both changes, along with two minor nits, are shown in track changes in the attached doc.

We'd be happy to discuss this.

Kind regards,  
Ray

<< File: Bitcoin Notice 2-19-14 ACCI Comments.docx >>

---

**From:** Welsh Donna J

**Sent:** Wednesday, February 19, 2014 2:46 PM

**To:** Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqai Keith A; Ronk Alice L; Fahey Douglas A; Welsh Donna J

**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

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**From:** Fahey Douglas A

**Sent:** Friday, February 14, 2014 1:13 PM

**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Subject:** Greensheet Circulation - Notice on Virtual Currencies

#### EXPEDITED REVIEW REQUESTED

Attached is a proposed notice that provides guidance in a Q&A format on some of the tax consequences arising from transactions using virtual currencies, including Bitcoin. The notice is targeted for release by the end of this month, so please submit any comments to me no later than COB Friday 2/21/14.

<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey  
**NEW PHONE 202-317-4619**

## **Stahl Raymond J**

---

**From:** McCall Daniel M  
**Sent:** Wednesday, February 19, 2014 4:57 PM  
**To:** Stahl Raymond J  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Thanks. Quite a thread!

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, February 19, 2014 4:55 PM  
**To:** McCall Daniel M  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

As discussed.

---

**From:** Musher Steven A  
**Sent:** Tuesday, February 18, 2014 12:07 PM  
**To:** Stahl Raymond J; Rollinson Marjorie; Bello Christopher J  
**Cc:** Erwin Mark E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Stahl Raymond J  
**Sent:** Tuesday, February 18, 2014 11:58 AM  
**To:** Rollinson Marjorie; Musher Steven A; Bello Christopher J  
**Cc:** Erwin Mark E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Rollinson Marjorie

**Sent:** Tuesday, February 18, 2014 11:36 AM  
**To:** Musher Steven A; Bello Christopher J; Stahl Raymond J  
**Cc:** Erwin Mark E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

This is certainly clearly –

Margie Rollinson  
(202) 317-4984

---

**From:** Musher Steven A  
**Sent:** Tuesday, February 18, 2014 11:30 AM  
**To:** Bello Christopher J; Stahl Raymond J  
**Cc:** Rollinson Marjorie; Erwin Mark E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

How about further tweak? I'm sure you can improve (hopefully streamline or simplify).

---

**From:** Bello Christopher J  
**Sent:** Tuesday, February 18, 2014 11:23 AM  
**To:** Musher Steven A; Stahl Raymond J  
**Cc:** Rollinson Marjorie; Erwin Mark E; Bello Christopher J  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Musher Steven A  
**Sent:** Tuesday, February 18, 2014 11:17 AM  
**To:** Stahl Raymond J; Rollinson Marjorie; Bello Christopher J; Erwin Mark E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Stahl Raymond J  
**Sent:** Tuesday, February 18, 2014 11:12 AM  
**To:** Rollinson Marjorie; Bello Christopher J; Erwin Mark E  
**Cc:** Musher Steven A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Margie –

(b)(5)

Happy to discuss.

Ray

---

**From:** Rollinson Marjorie  
**Sent:** Friday, February 14, 2014 4:25 PM  
**To:** Bello Christopher J; Erwin Mark E  
**Cc:** Musher Steven A; Stahl Raymond J  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Maybe we could discuss for a few minutes on Tuesday? I just want to be sure that we are comfortable that the Notice in no way precludes us from using 482 principles – but, I am confused by Steve's last email and think maybe we could resolve this more easily in person.

Thanks,

Margie

Margie Rollinson  
(202) 317-4984

---

**From:** Bello Christopher J  
**Sent:** Friday, February 14, 2014 4:22 PM  
**To:** Rollinson Marjorie; Erwin Mark E  
**Cc:** Musher Steven A; Stahl Raymond J; Bello Christopher J  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Rollinson Marjorie  
**Sent:** Friday, February 14, 2014 4:03 PM  
**To:** Erwin Mark E; Bello Christopher J  
**Cc:** Musher Steven A; Stahl Raymond J  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Mark –

Do you think you should (again) just send an email to Erik reminding him of this?

---

**From:** Fahey Douglas A

**Sent:** Friday, February 14, 2014 1:13 PM

**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Subject:** Greensheet Circulation - Notice on Virtual Currencies

EXPEDITED REVIEW REQUESTED

Attached is a proposed notice that provides guidance in a Q&A format on some of the tax consequences arising from transactions using virtual currencies, including Bitcoin. The notice is targeted for release by the end of this month, so please submit any comments to me no later than COB Friday 2/21/14.

<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey

**NEW PHONE 202-317-4619**

## **Stahl Raymond J**

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**From:** Stahl Raymond J  
**Sent:** Wednesday, February 19, 2014 4:37 PM  
**To:** Welsh Donna J  
**Cc:** Erwin Mark E; Jensen Steven D; Jenn Brian  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Thanks, Donna. The branch number is 317-6938. I've fixed that in the attached doc.



Bitcoin Notice  
2-19-14 ACCI Co...

---

**From:** Welsh Donna J  
**Sent:** Wednesday, February 19, 2014 4:33 PM  
**To:** Stahl Raymond J  
**Cc:** Erwin Mark E; Jensen Steven D; Jenn Brian  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi Ray, thanks. I will forward your comments along. I do not want to include your personal phone number in the Notice. So please make sure the phone number in the Notice is for your Branch.

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, February 19, 2014 4:27 PM  
**To:** Welsh Donna J  
**Cc:** Erwin Mark E; Jensen Steven D; Jenn Brian  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Hi Donna --

After discussing the Notice with our front office and Brian Jenn (cc'd) at Treasury, we have two proposed edits:

- -
- 
- (b)(5)

Both changes, along with two minor nits, are shown in track changes in the attached doc.



We'd be happy to discuss this.

Kind regards,  
Ray

<< File: Bitcoin Notice 2-19-14 ACCI Comments.docx >>

---

**From:** Welsh Donna J

**Sent:** Wednesday, February 19, 2014 2:46 PM

**To:** Shelburne Anne P; Erwin Mark E; Jensen Steven D; Stahl Raymond J; Blanchard William E; Rogers John W III; Dubert Alexa T; Tackney Stephen B; Richards John B; Shepherd Neil D; Hall Charles A; Griffin Adrienne E; Prasad Girish; Aqui Keith A; Ronk Alice L; Fahey Douglas A; Welsh Donna J

**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(4)

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**From:** Fahey Douglas A

**Sent:** Friday, February 14, 2014 1:13 PM

**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Subject:** Greensheet Circulation - Notice on Virtual Currencies

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Attached is a proposed notice that provides guidance in a Q&A format on some of the tax consequences arising from transactions using virtual currencies, including Bitcoin. The notice is targeted for release by the end of this month, so please submit any comments to me no later than COB Friday 2/21/14.

<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey  
**NEW PHONE 202-317-4619**

## **Stahl Raymond J**

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, February 19, 2014 4:30 PM  
**To:** Jenn Brian  
**Subject:** Bitcoin article

Brian – here's that Bitcoin article you practically begged us to send you. As Mark mentioned, we also did a little research and outlined our notes on potential definitions of the term "currency." If you ever get stuck looking at this question, let us know and we can pass along the outline.

-Ray



kpmg bitcoin.pdf

## **Stahl Raymond J**

---

**From:** Erwin Mark E  
**Sent:** Wednesday, February 19, 2014 11:07 AM  
**To:** Jensen Steven D  
**Cc:** Stahl Raymond J  
**Subject:** FW: Virtual Currency Notice

Looping in Steve J. Steve, we're speaking to Brian at 3:30

---

**From:** Stahl Raymond J  
**Sent:** Tuesday, February 18, 2014 2:01 PM  
**To:** Jenn Brian  
**Cc:** Erwin Mark E  
**Subject:** Virtual Currency Notice

Hi Brian –

(b)(5)

We would be happy to discuss this at your convenience. Mark and I are tied up after 3:30 today, but are generally free tomorrow.

Kind regards,  
Ray



Bitcoin Notice  
2-14-14 ACCI B5...

## Stahl Raymond J

---

**From:** Erwin Mark E  
**Sent:** Wednesday, February 19, 2014 9:38 AM  
**To:** Jensen Steven D; Stahl Raymond J  
**Subject:** FW: bitcoin article in WSJ

---

**From:** Blanchard William E  
**Sent:** Wednesday, February 19, 2014 7:00 AM  
**To:** &FIPLegal; Walli Karl - OTP; Novey Michael - OTP; Guiliano Vincent J; Milnes-Vasquez Marie C; Brickates Lewis K; Colson Faith P; Erwin Mark E; Fahey Douglas A; Welsh Donna J  
**Subject:** bitcoin article in WSJ

# Bitcoin Experiment in Real Life

## What to know about the virtual currency

By Geoffrey A. Fowler  
Updated Feb. 18, 2014 9:04 p.m. ET

Personal Tech Columnist Geoffrey Fowler spent a week shopping with the Internet's mysterious bitcoin currency. The result? Cupcakes and Grumpy Cat.

Deep in the unregulated underbelly of the Internet, bitcoin is the crypto-currency of the realm, making as many headlines for its volatile price as it has for its popularity with criminals seeking anonymity.

These are reasons enough to keep most people away. But bitcoin keeps popping up in more places as a way to pay for legal, everyday things. So I spent a week using the virtual currency and my experience surprised me: It was neither anonymous nor shadowy.

Though my hunt for places to spend bitcoin did turn up a questionable massage parlor, it didn't require venturing into fishy corners of the Internet. I used bitcoin to buy cupcakes and sushi at local shops, and I got a Grumpy Cat sweatshirt at Overstock.com.

Bitcoin isn't ready to replace credit cards or PayPal. It lacks wide acceptance, consumer protections and stability. The currency is in crisis right now, after hacking attacks disabled two of the biggest exchanges, making bitcoin lose a third of its value. During the course of a week, my own bitcoin lost as much as 7% of its value.

But that isn't stopping me from keeping a small wallet of the first major Internet currency. I'm no speculator, I'm not investing my savings in bitcoin, or recommending that anyone does that. I'm interested in what it might enable—a "tip jar" for online art, or small daily donations to charity. And if you're intrigued, too, this column will hopefully help you keep from losing your shirt.

The good news is you don't have to put much money at risk to try it out. I didn't even buy an entire "coin"—just 0.25 of one, or about \$160. I signed up for a virtual wallet, which promises to safeguard the string of code that is your money, and exchanges dollars for bitcoin (and vice versa). I recommend Coinbase, whose wallet connects to your regular bank account and charges a small fee, about 1%, with each trade.

Are these people trustworthy? Coinbase is backed by some big names in Silicon Valley, but has nothing like the government-backed guarantees of using dollars in a regular bank. In the past 15 months, Coinbase says it has set up nearly one million consumer wallets.

What surprised me most is how Coinbase strips some anonymity out of the currency. To buy bitcoin, it asked me for my bank account information, my credit-card numbers, even my bank website login details. The company doesn't retain all that info but it is used to speed up the verification process, which can normally take four days.

The point of gathering all this information, says CEO Brian Armstrong, is to prevent "shenanigans," so the traditional banks will see Coinbase as legitimate.

Coinbase has done a good job of simplifying bitcoin use. To pay for sushi at a local shop, I used the Coinbase app on my Android phone to scan the QR code presented by my server. (Apple hasn't yet approved the Coinbase app for iPhone, but you can make payments via the Web.)

Once I confirmed my sushi payment, the money transferred instantly. For consumers, bitcoin's speed can be a dual-edged sword: If something goes wrong, there's no third party to intercede and get your money back. And returns can be tricky on a currency with a wildly fluctuating value. (Fortunately, I had no complaints about my sushi.)

Making a purchase online works much the same. At the Overstock.com checkout page, I chose to pay by bitcoin, and then scanned an on-screen code with my phone.

So why bother using bitcoin? Bitcoin doesn't really solve mainstream consumer problems like speed and convenience, says Mark T. Williams, who teaches finance at Boston University and is a bitcoin skeptic. "It solves a problem if you want to send stuff secretly."

Though Coinbase and other wallets collect information about you, you can still try to make transfers or payments anonymous. If someone gives you bitcoin, you can set up a Coinbase wallet without entering many personal details—though you'll need to verify yourself if you want to turn your bitcoin back into dollars.

Getting merchants on board will be a slog. Some 3,000 businesses around the world accept bitcoin for payment, according to Coinmap.org. There are more than 60 in the San Francisco Bay Area where I live, but I still struggled to find places worth spending my bitcoin. When I did, paying with bitcoin was usually speedy, but certainly not faster than using a credit card or cash.

Overstock is planning to offer a financial incentive to paying with bitcoin. Since bitcoin payments save the retailer credit-card fees, Overstock will give bitcoin customers 1% back on their purchases (in store credit).

So far, the killer app for bitcoin may be international transfers, a process made costly and slow by traditional banks and services like PayPal. I tried sending \$10 worth of bitcoin to my friend Kevin in Hong Kong. In minutes, he was up on Coinbase and zapping the money back to me. I sent it over the Pacific again, impressed at our ability to play ping pong with a financial process that normally takes days.

But when Kevin tried to spend his bitcoin in Hong Kong, opportunities were slim. He found a massage parlor that accepts it, but his wife wasn't impressed with his proposal to sample its services. Eventually Kevin found a florist (wife-approved), but I hadn't sent him enough to buy a bouquet. To buy more bitcoin, a legitimate-seeming Hong Kong wallet company asked for his passport, proof of address—and more time.

Someday, all of this might be easier. Taking a vacation with bitcoin might provide a way to avoid international currency and credit card fees. But that day isn't here yet.

"Some day"—I found myself thinking that a lot while using Bitcoin. It may be a currency of the future, but it's still looking for a reason to be useful in the present.

## **Show Them the Money**

So you've got some Bitcoin in a wallet such as Coinbase, here's what it takes to spend it at a restaurant or retailer:

- ◆ Find a store that accepts Bitcoin. Coinmap.org now lists 3,000 places, plus online retailers.
- ◆ Call ahead to make sure the store accepts Bitcoin.
- ◆ Don't freak out if prices are only listed in dollars. The store's app will do the conversion for you when you pay.
- ◆ When you're ready to pay, tell your server or cashier you want to pay in Bitcoin. The employee will show you a phone or tablet with a QR code on its screen.
- ◆ With an Android phone, use the Coinbase app. Click on the QR code icon to bring up your phone's camera and hold it over the restaurant's QR code. Confirm your payment amount.
- ◆ For iPhones, you have to log into Coinbase's mobile website. Click "send money." On the merchant's device, click the QR code or ask the merchant to click "view address." Manually type in the Bitcoin address.
- ◆ The store then receives confirmation of your payment on their device.

## **Stahl Raymond J**

---

**From:** Erwin Mark E  
**Sent:** Tuesday, February 18, 2014 5:41 PM  
**To:** Stahl Raymond J  
**Subject:** Accepted: Virtual Currency Notice



## **Stahl Raymond J**

---

**From:** Brian.Jenn@treasury.gov  
**Sent:** Tuesday, February 18, 2014 4:57 PM  
**To:** Stahl Raymond J  
**Subject:** Accepted: Virtual Currency Notice

## **Stahl Raymond J**

---

**From:** Stahl Raymond J  
**Sent:** Tuesday, February 18, 2014 3:57 PM  
**To:** Jenn Brian  
**Cc:** Erwin Mark E  
**Subject:** RE: Virtual Currency Notice

Thanks, Brian. I'll circulate an Outlook invitation.

---

**From:** Brian.Jenn@treasury.gov [mailto:Brian.Jenn@treasury.gov]  
**Sent:** Tuesday, February 18, 2014 3:48 PM  
**To:** Stahl Raymond J  
**Cc:** Erwin Mark E  
**Subject:** RE: Virtual Currency Notice

Happy to discuss. I don't mind addressing those points – especially the second one – but I am also not overly concerned about them. I'm free all afternoon tomorrow. Feel free to set up a call.

Thanks.

---

**From:** Stahl Raymond J [mailto:Raymond.J.Stahl@irsounsel.treas.gov]  
**Sent:** Tuesday, February 18, 2014 2:01 PM  
**To:** Jenn, Brian  
**Cc:** Erwin, Mark E  
**Subject:** Virtual Currency Notice

Hi Brian –

(b)(3)

We would be happy to discuss this at your convenience. Mark and I are tied up after 3:30 today, but are generally free tomorrow.

Kind regards,  
Ray

## **Stahl Raymond J**

---

**From:** Stahl Raymond J  
**Sent:** Tuesday, February 18, 2014 11:58 AM  
**To:** Rollinson Marjorie; Musher Steven A; Bello Christopher J  
**Cc:** Erwin Mark E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Rollinson Marjorie  
**Sent:** Tuesday, February 18, 2014 11:36 AM  
**To:** Musher Steven A; Bello Christopher J; Stahl Raymond J  
**Cc:** Erwin Mark E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

This is certainly clearly –

Margie Rollinson  
(202) 317-4984

---

**From:** Musher Steven A  
**Sent:** Tuesday, February 18, 2014 11:30 AM  
**To:** Bello Christopher J; Stahl Raymond J  
**Cc:** Rollinson Marjorie; Erwin Mark E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Bello Christopher J  
**Sent:** Tuesday, February 18, 2014 11:23 AM  
**To:** Musher Steven A; Stahl Raymond J  
**Cc:** Rollinson Marjorie; Erwin Mark E; Bello Christopher J  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Erwin Mark E  
**Sent:** Friday, February 14, 2014 1:33 PM  
**To:** Musher Steven A  
**Cc:** Rollinson Marjorie; McCall Daniel M  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I was not copied on the circulation. Could you please forward with attachment?

(b)(5)

---

**From:** Musher Steven A  
**Sent:** Friday, February 14, 2014 1:26 PM  
**To:** Erwin Mark E  
**Cc:** Rollinson Marjorie; McCall Daniel M  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

Do you think you should (again) just send an email to Erik reminding him of this?

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 14, 2014 1:13 PM  
**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Greensheet Circulation - Notice on Virtual Currencies

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<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey  
**NEW PHONE 202-317-4619**

## **Stahl Raymond J**

---

**From:** Rollinson Marjorie  
**Sent:** Tuesday, February 18, 2014 11:35 AM  
**To:** Stahl Raymond J; Bello Christopher J; Erwin Mark E  
**Cc:** Musher Steven A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Yes – I think that would be good.

Margie Rollinson  
(202) 317-4984

---

**From:** Stahl Raymond J  
**Sent:** Tuesday, February 18, 2014 11:12 AM  
**To:** Rollinson Marjorie; Bello Christopher J; Erwin Mark E  
**Cc:** Musher Steven A  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Margie –

(b)(5)

Happy to discuss.

Ray

---

**From:** Rollinson Marjorie  
**Sent:** Friday, February 14, 2014 4:25 PM  
**To:** Bello Christopher J; Erwin Mark E  
**Cc:** Musher Steven A; Stahl Raymond J  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Maybe we could discuss for a few minutes on Tuesday?

(b)(5)

(b)(5)

Thanks,

Margie

<< File: Bitcoin Notice 2-14-14.docx >>

Bad form for them not to cc you.

---

**From:** Erwin Mark E  
**Sent:** Friday, February 14, 2014 1:33 PM  
**To:** Musher Steven A  
**Cc:** Rollinson Marjorie; McCall Daniel M  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I was not copied on the circulation. Could you please forward with attachment?

(b)(5)

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**From:** Musher Steven A  
**Sent:** Friday, February 14, 2014 1:26 PM  
**To:** Erwin Mark E  
**Cc:** Rollinson Marjorie; McCall Daniel M  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

Do you think you should (again) just send an email to Erik reminding him of this?

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 14, 2014 1:13 PM  
**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Greensheet Circulation - Notice on Virtual Currencies

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Doug Fahey  
NEW PHONE 202-317-4619

Do you think you should (again) just send an email to Erik reminding him of this?

---

**From:** Fahey Douglas A

**Sent:** Friday, February 14, 2014 1:13 PM

**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)

**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)

**Subject:** Greensheet Circulation - Notice on Virtual Currencies

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<< File: Bitcoin Notice 2-14-14.docx >>

Doug Fahey

**NEW PHONE 202-317-4619**



## **Stahl Raymond J**

---

**From:** Erwin Mark E  
**Sent:** Tuesday, February 18, 2014 10:28 AM  
**To:** Stahl Raymond J  
**Subject:** RE: bitcoin notice

That would be great. thanks

---

**From:** Stahl Raymond J  
**Sent:** Tuesday, February 18, 2014 10:27 AM  
**To:** Erwin Mark E  
**Subject:** RE: bitcoin notice

(b)(5)

**From:** Erwin Mark E  
**Sent:** Tuesday, February 18, 2014 10:25 AM  
**To:** [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov)  
**Cc:** Stahl Raymond J  
**Subject:** RE: bitcoin notice

Thanks. We suspected that there were a lot of cooks in the kitchen. We'll reach out to Brian.

---

**From:** [Karl.Walli@treasury.gov](mailto:Karl.Walli@treasury.gov) [<mailto:Karl.Walli@treasury.gov>]  
**Sent:** Tuesday, February 18, 2014 10:22 AM  
**To:** Erwin Mark E  
**Cc:** Stahl Raymond J  
**Subject:** RE: bitcoin notice

(b)(5)

**From:** Erwin Mark E [<mailto:Mark.E.Erwin@irs.counsel.treas.gov>]  
**Sent:** Tuesday, February 18, 2014 10:18 AM  
**To:** Walli, Karl  
**Cc:** Stahl, Raymond J  
**Subject:** bitcoin notice

(b)(5)

By the way, I'm working from home today but am available by email most of the day. Karen and Peter are going to send you a draft notice on 871m to review shortly.

Mark E. Erwin  
Chief, Branch 5  
Office of Associate Chief Counsel (INTL)  
202-317-4936

**Stahl Raymond J**

---

**From:** Erwin Mark E  
**Sent:** Tuesday, February 18, 2014 10:18 AM  
**To:** Walli Karl - OTP  
**Cc:** Stahl Raymond J  
**Subject:** bitcoin notice

Karl – were you reviewing this notice for ITC issues or do you know who in ITC was looking at it?

(b)(3)

very much.

Thanks

By the way, I'm working from home today but am available by email most of the day. Karen and Peter are going to send you a draft notice on 871m to review shortly.

Mark E. Erwin  
Chief, Branch 5  
Office of Associate Chief Counsel (INTL)  
202-317-4936

**Stahl Raymond J**

---

**From:** Erwin Mark E  
**Sent:** Tuesday, February 18, 2014 10:00 AM  
**To:** Stahl Raymond J  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Thanks.

---

**From:** Stahl Raymond J  
**Sent:** Tuesday, February 18, 2014 9:53 AM  
**To:** Erwin Mark E  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

Yes, got it. I'll aggregate comments after we get Margie & Steve's input. There's another small typo on the last page.

---

**From:** Erwin Mark E  
**Sent:** Tuesday, February 18, 2014 9:52 AM  
**To:** Stahl Raymond J  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

Did I forward this to you? (apologies either way)

---

**From:** McCall Daniel M  
**Sent:** Friday, February 14, 2014 2:06 PM  
**To:** Erwin Mark E; Musher Steven A  
**Cc:** Rollinson Marjorie  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

(b)(5)

---

**From:** Erwin Mark E  
**Sent:** Friday, February 14, 2014 1:33 PM  
**To:** Musher Steven A  
**Cc:** Rollinson Marjorie; McCall Daniel M  
**Subject:** RE: Greensheet Circulation - Notice on Virtual Currencies

I was not copied on the circulation. Could you please forward with attachment?

(b)(5)

## Merkel D. Peter

---

**From:** Merkel D. Peter  
**Sent:** Wednesday, March 05, 2014 3:46 PM  
**To:** Rollinson Marjorie; Stahl Raymond J  
**Subject:** RE: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?

No problem—I didn't see your email until after I sent mine.

---

**From:** Rollinson Marjorie  
**Sent:** Wednesday, March 05, 2014 2:59 PM  
**To:** Merkel D. Peter; Stahl Raymond J  
**Subject:** RE: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?

Sorry – I already sent the response.

Margie

Margie Rollinson  
(202) 317 4984

---

**From:** Merkel D. Peter  
**Sent:** Wednesday, March 05, 2014 2:59 PM  
**To:** Stahl Raymond J; Rollinson Marjorie  
**Subject:** RE: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?

Ray and Margie,

Below please find an addition in red. The parenthetical may be overkill, but I thought it was helpful to show some support for the position.

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, March 05, 2014 2:20 PM  
**To:** Rollinson Marjorie; Merkel D. Peter  
**Subject:** FW: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?  
**Importance:** High

Margie and Peter,

A draft reply to Erik from Margie:

DRAFT

(b)(5)

**From:** Merkel D. Peter  
**Sent:** Wednesday, March 05, 2014 12:41 PM  
**To:** Stahl Raymond J  
**Subject:** FW: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?  
**Importance:** High

See Erik's second bullet.

**From:** Rollinson Marjorie  
**Sent:** Wednesday, March 05, 2014 12:33 PM  
**To:** Merkel D. Peter  
**Subject:** Fw: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?  
**Importance:** High

See below - can we talk at 1?

**From:** Musher Steven A  
**Sent:** Wednesday, March 05, 2014 12:30 PM  
**To:** Rollinson Marjorie  
**Subject:** FW: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?

With Peter??

Internal Revenue Service  
Phone: 202-317-3300  
[erik.h.corwin@irsounsel.treas.gov](mailto:erik.h.corwin@irsounsel.treas.gov)

## **Merkel D. Peter**

---

**From:** Merkel D. Peter  
**Sent:** Wednesday, March 05, 2014 12:44 PM  
**To:** Stahl Raymond J  
**Subject:** RE: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?

Let's just talk to Margie first. We can follow up with him if we need to.

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, March 05, 2014 12:43 PM  
**To:** Merkel D. Peter  
**Subject:** RE: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?

(b)(5)

---

**From:** Merkel D. Peter  
**Sent:** Wednesday, March 05, 2014 12:41 PM  
**To:** Stahl Raymond J  
**Subject:** FW: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?  
**Importance:** High

See Erik's second bullet.

---

**From:** Rollinson Marjorie  
**Sent:** Wednesday, March 05, 2014 12:33 PM  
**To:** Merkel D. Peter  
**Subject:** Fw: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?  
**Importance:** High

See below - can we talk at 1?

---

**From:** Musher Steven A  
**Sent:** Wednesday, March 05, 2014 12:30 PM  
**To:** Rollinson Marjorie  
**Subject:** FW: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?

With Peter??

---

**From:** Corwin Erik H  
**Sent:** Wednesday, March 05, 2014 12:28 PM  
**To:** Musher Steven A; Keyso Jr. Andrew J; Moriarty John P  
**Cc:** Tackney Stephen B; Milnes-Vasquez Marie C; Judson Victoria A; Rollinson Marjorie; Erwin Mark E; Hubbard Helen M  
**Subject:** RE: Bitcoin Notice

(b)(5)

---

**From:** Musher Steven A  
**Sent:** Wednesday, March 05, 2014 12:26 PM

## Merkel D. Peter

---

**From:** Merkel D. Peter  
**Sent:** Wednesday, March 05, 2014 12:41 PM  
**To:** Stahl Raymond J  
**Subject:** FW: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?  
**Importance:** High

See Erik's second bullet.

---

**From:** Rollinson Marjorie  
**Sent:** Wednesday, March 05, 2014 12:33 PM  
**To:** Merkel D. Peter  
**Subject:** Fw: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?  
**Importance:** High

See below - can we talk at 1?

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**From:** Musher Steven A  
**Sent:** Wednesday, March 05, 2014 12:30 PM  
**To:** Rollinson Marjorie  
**Subject:** FW: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?

With Peter??

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**From:** Corwin Erik H  
**Sent:** Wednesday, March 05, 2014 12:28 PM  
**To:** Musher Steven A; Keyso Jr. Andrew J; Moriarty John P  
**Cc:** Tackney Stephen B; Milnes-Vasquez Marie C; Judson Victoria A; Rollinson Marjorie; Erwin Mark E; Hubbard Helen M  
**Subject:** RE: Bitcoin Notice

(b) (5)

---

**From:** Musher Steven A  
**Sent:** Wednesday, March 05, 2014 12:26 PM  
**To:** Corwin Erik H; Keyso Jr. Andrew J; Moriarty John P  
**Cc:** Tackney Stephen B; Milnes-Vasquez Marie C; Judson Victoria A; Rollinson Marjorie; Erwin Mark E; Hubbard Helen M  
**Subject:** Re: Bitcoin Notice

(b) (5)



## Merkel D. Peter

---

**From:** Merkel D. Peter  
**Sent:** Wednesday, March 05, 2014 12:39 PM  
**To:** Rollinson Marjorie  
**Subject:** RE: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?

Sure—Do you mind if I bring Ray Stahl along with me? He has been researching this issue for Branch 5.

---

**From:** Rollinson Marjorie  
**Sent:** Wednesday, March 05, 2014 12:33 PM  
**To:** Merkel D. Peter  
**Subject:** Fw: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?  
**Importance:** High

See below - can we talk at 1?

---

**From:** Musher Steven A  
**Sent:** Wednesday, March 05, 2014 12:30 PM  
**To:** Rollinson Marjorie  
**Subject:** FW: Bitcoin Notice - Can you coordinate a response on ACCI's behalf?

With Peter??

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**From:** Corwin Erik H  
**Sent:** Wednesday, March 05, 2014 12:28 PM  
**To:** Musher Steven A; Keyso Jr. Andrew J; Moriarty John P  
**Cc:** Tackney Stephen B; Milnes-Vasquez Marie C; Judson Victoria A; Rollinson Marjorie; Erwin Mark E; Hubbard Helen M  
**Subject:** RE: Bitcoin Notice

(b)(5)

---

**From:** Musher Steven A  
**Sent:** Wednesday, March 05, 2014 12:26 PM  
**To:** Corwin Erik H; Keyso Jr. Andrew J; Moriarty John P  
**Cc:** Tackney Stephen B; Milnes-Vasquez Marie C; Judson Victoria A; Rollinson Marjorie; Erwin Mark E; Hubbard Helen M  
**Subject:** Re: Bitcoin Notice

(b)(5)

Feel free to weigh in on technical points.

---

**From:** Corwin Erik H  
**Sent:** Wednesday, March 05, 2014 12:16 PM  
**To:** Keyso Jr. Andrew J; Moriarty John P

## Merkel D. Peter

---

**From:** Merkel D. Peter  
**Sent:** Thursday, February 20, 2014 2:30 PM  
**To:** Stahl Raymond J  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

I didn't see you on this distribution, but I thought you worked on this. You might want to take a look in case there is anything new.

---

**From:** Bray Patricia A  
**Sent:** Thursday, February 20, 2014 1:18 PM  
**To:** &INTL 1-8 Revrs  
**Subject:** FW: Greensheet Circulation - Notice on Virtual Currencies

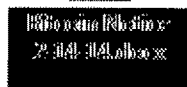
FYI. Please send comments to Doug Fahey by COB Friday.

---

**From:** Fahey Douglas A  
**Sent:** Friday, February 14, 2014 1:13 PM  
**To:** &FIP Review; &PA Published Guidance Reviewers; &PSI MGR Review - Green Sheet; &TEGE Review - Green Sheet; Alexander William D; Arterton Cameron; Axelrod Lawrence M; Berman Samuel; Blum Steven H; Bray Patricia A; Cervantes Johnny; Corwin Erik H; Cromling Candice V; Drexler Kenneth J; Ebeid Munir I; Elliott Nicole M; Fattman Stephen P; Ford Gloria L; Freeman Anne C; Freeman Curtis L; Harriet Alan J; Kaizen Mark S; Kane Thomas J; Keyso Jr. Andrew J; Kirbabas Mark J; Kroening Linda M; Kelley Lee - OTP; McClanahan Patricia; Minsky Joanne B; Moe Debra K; Moriarty John P; Moss Forrest Jacqueline; Musher Steven A; Olson Nina E; Rolfes Danielle; San Juan Eric A; Smith Amber (Washington DC); Smith Lon B; Sterner Christopher B; Thomas Thomas R (Division Counsel); Wall Judith M; Wilkins William J; Zarlenga Lisa (OTP)  
**Cc:** Khoury Mireille; [Rochelle.Hodes@treasury.gov](mailto:Rochelle.Hodes@treasury.gov)  
**Subject:** Greensheet Circulation - Notice on Virtual Currencies

### EXPEDITED REVIEW REQUESTED

Attached is a proposed notice that provides guidance in a Q&A format on some of the tax consequences arising from transactions using virtual currencies, including Bitcoin. The notice is targeted for release by the end of this month, so please submit any comments to me no later than COB Friday 2/21/14.



Doug Fahey  
NEW PHONE 202-317-4619

**Merkel D. Peter**

---

**From:** Merkel D. Peter  
**Sent:** Wednesday, December 10, 2014 12:18 PM  
**To:** Stahl Raymond J  
**Cc:** Marra Anthony J  
**Subject:** Bitcoin

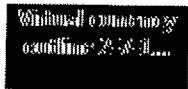
I thought you might find this bitcoin article interesting.

<http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370543655716>

## Merkel D. Peter

---

**From:** Stahl Raymond J  
**Sent:** Wednesday, March 05, 2014 12:38 PM  
**To:** Merkel D. Peter  
**Subject:** Virtual currency outline 2-7-14.docx



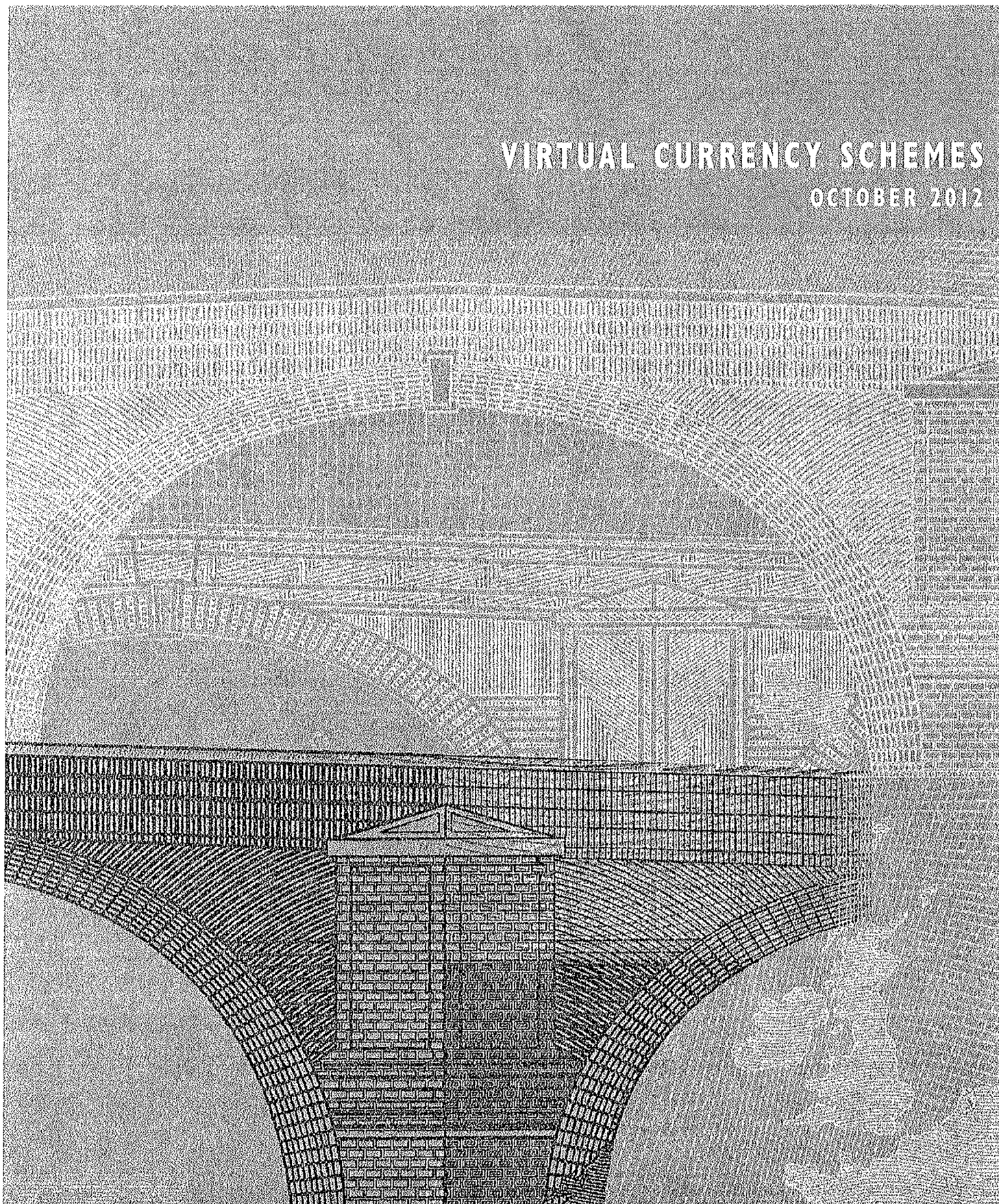


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# VIRTUAL CURRENCY SCHEMES

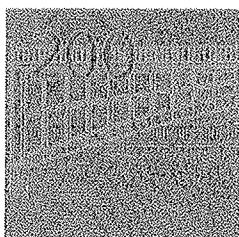
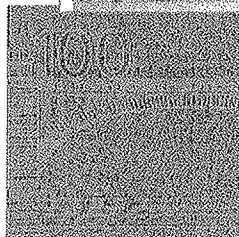
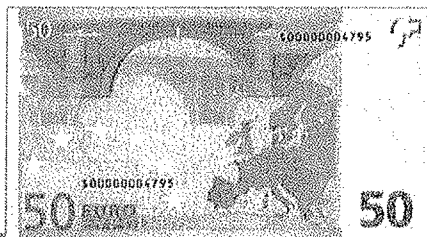
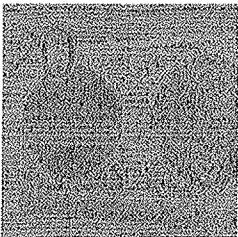
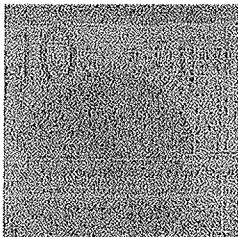
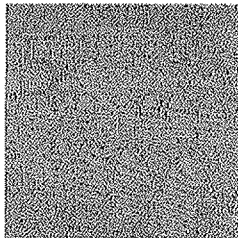
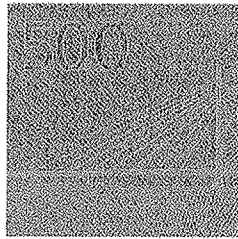
OCTOBER 2012





EUROPEAN CENTRAL BANK

EUROSYSTEM



In 2012 all ECB  
publications  
feature a motif  
taken from  
the €50 banknote.

## VIRTUAL CURRENCY SCHEMES

OCTOBER 2012

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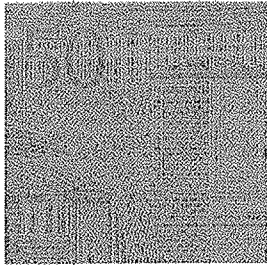
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## EXECUTIVE SUMMARY

Virtual communities have proliferated in recent years – a phenomenon triggered by technological developments and by the increased use of the internet. In some cases, these communities have created and circulated their own currency for exchanging the goods and services they offer, and thereby provide a medium of exchange and a unit of account for that particular virtual community.

This paper aims to provide some clarity on virtual currencies and tries to address the issue in a structured approach. It is important to take into account that these currencies both resemble money and necessarily come with their own dedicated retail payment systems; these two aspects are covered by the term “virtual currency scheme”. Virtual currency schemes are relevant in several areas of the financial system and are therefore of interest to central banks. This, among other things, explains the ECB’s interest in carrying out an analysis, especially in view of its role as a catalyst for payment systems and its oversight role.

This report begins by defining and classifying virtual currency schemes based on observed characteristics; these might change in future, which could affect the current definition. A virtual currency can be defined as a type of unregulated, digital money, which is issued and usually controlled by its developers, and used and accepted among the members of a specific virtual community. Depending on their interaction with traditional, “real” money and the real economy, virtual currency schemes can be classified into three types: Type 1, which is used to refer to closed virtual currency schemes, basically used in an online game; Type 2 virtual currency schemes have a unidirectional flow (usually an inflow), i.e. there is a conversion rate for purchasing the virtual currency, which can subsequently be used to buy virtual goods and services, but exceptionally also to buy real goods and services; and Type 3 virtual currency schemes have bidirectional flows, i.e. the virtual currency in this respect acts like any other convertible currency, with two exchange rates (buy and sell), which can subsequently be used to buy virtual goods and services, but also to purchase real goods and services.

Virtual currency schemes differ from electronic money schemes insofar as the currency being used as the unit of account has no physical counterpart with legal tender status. The absence of a distinct legal framework leads to other important differences as well. Firstly, traditional financial actors, including central banks, are not involved. The issuer of the currency and scheme owner is usually a non-financial private company. This implies that typical financial sector regulation and supervision arrangements are not applicable. Secondly, the link between virtual currency and traditional currency (i.e. currency with a legal tender status) is not regulated by law, which might be problematic or costly when redeeming funds, if this is even permitted. Lastly, the fact that the currency is denominated differently (i.e. not euro, US dollar, etc.) means that complete control of the virtual currency is given to its issuer, who governs the scheme and manages the supply of money at will.

There are several business reasons behind the establishment of virtual currency schemes. They may provide a financial incentive for virtual community users to continue to participate, or create lock-in effects. Moreover, schemes are able to generate revenue for their owners, for instance float revenue. In addition, a virtual currency scheme, by allowing the virtual community owner to control its basic elements (e.g. the creation of money and/or how to allocate funds), provides a high level of flexibility regarding the business model and business strategy for the virtual community. Finally, specifically for Type 3 schemes, a virtual currency scheme may also be implemented in order to compete with traditional currencies, such as the euro or the US dollar.

The first case study in this report relates to Bitcoin, a virtual currency scheme based on a peer-to-peer network. It does not have a central authority in charge of money supply, nor a central clearing house, nor are financial institutions involved in the transactions, since users perform all these tasks themselves. Bitcoins can be spent on both virtual and real goods and services. Its exchange rate with respect to other currencies is determined by supply and demand and several exchange platforms exist. The scheme has been surrounded by some controversy, not least because of its potential to become an alternative currency for drug dealing and money laundering as a result of its high degree of anonymity.

The second case study in this report is Second Life's virtual currency scheme, in which Linden Dollars are used. This scheme can only be used within this virtual community for the purchase of virtual goods and services. Linden Lab manages the scheme and acts as issuer and transaction processor and ensures a stable exchange rate against the US dollar. However, the Second Life scheme has been subject to debate, and it has been suggested that this currency is more than simply money for online gaming.

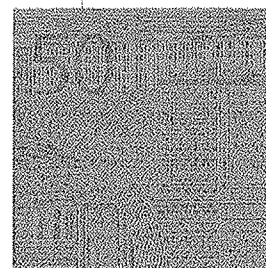
Thereafter, a preliminary assessment is presented of the relevance of virtual currency schemes for central banks, paying attention mostly to schemes which are more open and linked to the real economy (i.e. Type 3 schemes). The assessment covers the stability of prices, of the financial system and of the payment system, looking also at the regulatory perspective. It also addresses reputational risk concerns. It can be concluded that, in the current situation, virtual currency schemes:

- do not pose a risk to price stability, provided that money creation continues to stay at a low level;
- tend to be inherently unstable, but cannot jeopardise financial stability, owing to their limited connection with the real economy, their low volume traded and a lack of wide user acceptance;
- are currently not regulated and not closely supervised or overseen by any public authority, even though participation in these schemes exposes users to credit, liquidity, operational and legal risks;
- could represent a challenge for public authorities, given the legal uncertainty surrounding these schemes, as they can be used by criminals, fraudsters and money launderers to perform their illegal activities;
- could have a negative impact on the reputation of central banks, assuming the use of such systems grows considerably and in the event that an incident attracts press coverage, since the public may perceive the incident as being caused, in part, by a central bank not doing its job properly;
- do indeed fall within central banks' responsibility as a result of characteristics shared with payment systems, which give rise to the need for at least an examination of developments and the provision of an initial assessment.

This report is a first attempt to provide the basis for a discussion on virtual currency schemes. Although these schemes can have positive aspects in terms of financial innovation and the provision

of additional payment alternatives to consumers, it is clear that they also entail risks. Owing to the small size of virtual currency schemes, these risks do not affect anyone other than users of the schemes. This assessment could change if usage increases significantly, for example if it were boosted by innovations which are currently being developed or offered. As a consequence, it is recommended that developments are regularly examined in order to reassess the risks.





# I INTRODUCTION

## I.1 PRELIMINARY REMARKS AND MOTIVATION

This report seeks to provide clarity on the topic of virtual currencies and tries to address the issue in a structured approach. Such an approach has been absent, at least to some extent, from the existing literature. Moreover, there have previously been no references to this topic in the publications of central banks, international organisations or public authorities. As a consequence, this report largely relies on information and data gathered from material published on the internet (see the Annex for references and further reading), whose reliability, however, cannot be fully guaranteed. This places serious limitations on the present study.

Virtual currencies resemble money and necessarily come with their own dedicated retail payment systems; these two aspects are covered by the term “virtual currency scheme”. Virtual currency schemes are relevant in several areas of the financial system and are therefore of interest to central banks. Virtual currency schemes have been subject to increased press coverage, even being featured in respectable media publications. The ECB has been contacted a number of times in recent months by academics, journalists and concerned citizens, who want to know its view or want to warn the institution about potential problems with virtual currency schemes. In this context, it was considered advisable to strive for a common understanding and, thereafter, to formulate a coordinated response. This explains the ECB’s interest in carrying out a more detailed analysis, especially in view of its role as a catalyst for payment systems and its oversight role. The present report is the result of this analysis. It is a first attempt to provide the basis for a discussion on virtual currency schemes.

This report is structured into four parts. After a brief review of the history of money in this chapter, Chapter 2 defines and classifies virtual currency schemes. It also shows how their payment arrangements work and addresses the various business reasons for implementing these schemes. Chapter 3 focuses on two prominent virtual currency schemes, namely Bitcoin and Second Life’s Linden Dollars, and describes their basic features, technical elements and monetary aspects. It also addresses the latest issues and security incidents in which these schemes have been involved. Chapter 4 offers an assessment of how central banks could be affected by these schemes, taking into account different aspects, i.e. price stability, financial stability, the smooth operation of payment systems, the regulatory perspective and reputational risk. The report finishes by offering conclusions and proposals for future action.

## I.2 A SHORT HISTORICAL REVIEW OF MONEY

It is difficult to establish the precise origins of monetary societies. It seems that payments using some form of money were being made as early as 2200 BC. Nevertheless, the format of money has changed considerably since then. Early money was usually commodity money, that is, an object which had intrinsic value (e.g. cattle, seeds, etc., and later, gold and silver, for instance).

Around the eighteenth century, “commodity-backed” money started to be used, which consisted of items representing the underlying commodity (e.g. gold certificates). These pieces of paper were not intrinsically valuable, but they could be exchanged for a fixed quantity of the underlying commodity. The main advantages of this system were the portability of the money and that larger amounts of money could be transferred.

Modern economies are typically based on “fiat” money, which is similar to commodity-backed money in its appearance, but radically different in concept, as it can no longer be redeemed for a commodity. Fiat money is any legal tender designated and issued by a central authority. People

are willing to accept it in exchange for goods and services simply because they trust this central authority. Trust is therefore a crucial element of any fiat money system.

Regardless of the form of money, it is traditionally associated with three different functions:

- *Medium of exchange*: money is used as an intermediary in trade to avoid the inconveniences of a barter system, i.e. the need for a coincidence of wants between the two parties involved in the transaction.
- *Unit of account*: money acts as a standard numerical unit for the measurement of value and costs of goods, services, assets and liabilities.
- *Store of value*: money can be saved and retrieved in the future.

Money is a social institution: a tool created and marked by society's evolution, which has exhibited a great capacity to evolve and adapt to the character of the times. It is not surprising that money has been affected by recent technological developments and especially by the widespread use of the internet.

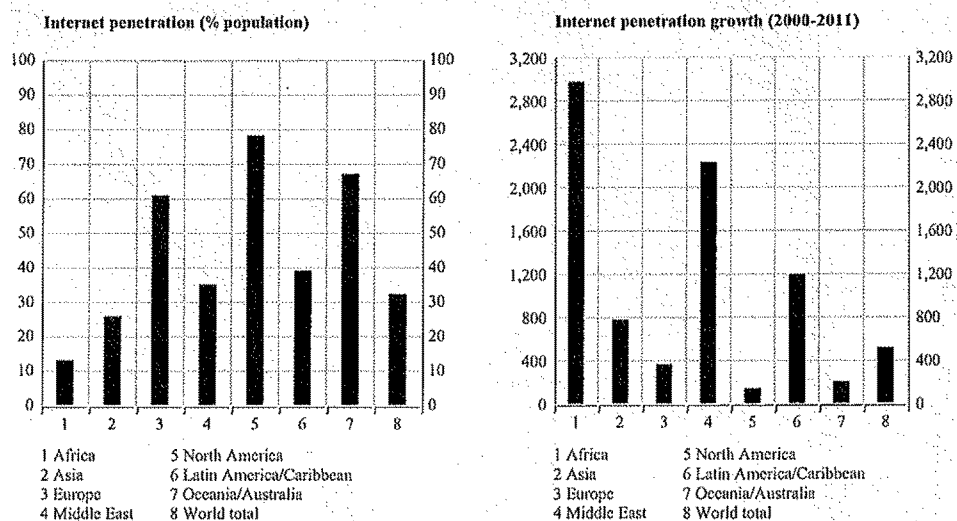
### 1.3 MONEY IN THE VIRTUAL WORLD

Since its establishment in the 1980s and following the creation of the World Wide Web in the mid-1990s, access to and use of the internet has grown dramatically. According to Internet World Stats,<sup>1</sup> the number of internet users in the world was 361 million at the end of 2000, whereas by the end

<sup>1</sup> <http://www.internetworldstats.com>

Chart 1 Internet penetration and growth by region (December 2011)

(percentage)



Source: Internet World Stats.

of 2011 this figure had reached 2,267 million, or approximately 33% of the global population. The impact has been so significant that it could reasonably be considered a structural change in social behaviour, affecting the way people live, interact with each other, gather information and, of course, the way they pay.

In connection with the high penetration of the internet, there has also been a proliferation of virtual communities in recent years. A virtual community is to be understood as a place within cyberspace where individuals interact and follow mutual interests or goals. Social networking is probably the most omnipresent type of virtual community (e.g. Facebook, MySpace, Twitter), but there are other prominent communities, such as those that share knowledge (e.g. Wikipedia), those that create a virtual world (e.g. Second Life) or those that aim to create an online environment for gambling (e.g. Online Vegas Casino).

In some cases, these virtual communities have created and circulated their own digital currency for exchanging the goods and services they offer, thereby creating a new form of digital money (see Table 1). The existence of competing currencies is not new, as local, unregulated currency communities existed long before the digital age.<sup>2</sup> These schemes can have positive aspects if they contribute to financial innovation and provide additional payment alternatives to consumers. However, it is clear that they can also pose risks for their users, especially in view of the current lack of regulation.

In essence, virtual currencies act as a medium of exchange and as a unit of account within a particular virtual community. The question then arises as to whether they also fulfil the “store of value” function in terms of being reliable and safe, or whether they pose a risk not only for their users but also the wider economy.

Table 1 A money matrix

Legal status	Unregulated	– Certain types of local currencies	– Virtual currency
	Regulated	– Banknotes and coins	– E-money – Commercial bank money (deposits)
		Physical	Digital
		Money format	

Source: ECB.

<sup>2</sup> See [http://en.wikipedia.org/wiki/Local\\_currency](http://en.wikipedia.org/wiki/Local_currency)





## 2 VIRTUAL CURRENCY SCHEMES

### 2.1 DEFINITION AND CATEGORISATION

Against the background provided in the previous chapter and based on observed characteristics, it is possible to provide the following definition of virtual currency: “a virtual currency is a type of unregulated, digital money, which is issued and usually controlled by its developers, and used and accepted among the members of a specific virtual community”. This definition may need to be adapted in future if fundamental characteristics change.

There are typically two ways to obtain virtual currencies. In many virtual currency schemes, the fastest way is to purchase it using “real” money at a conversion rate that has been previously established;<sup>1</sup> the virtual currency itself usually has no commodity-backed value.<sup>2</sup> Secondly, users can often increase their stock by engaging in specific activities, for instance by responding to a promotion or advertisement or by completing an online survey.

There are many different virtual currency schemes and it is not easy to classify them. One possibility is to focus on their interactions with real money and the real economy. This occurs through two channels: a) the monetary flow via currency exchanges; and b) the real flow in the sense of the possibility to purchase real goods and services. Taking this as a basis, three types can be distinguished:

- 1) *Closed virtual currency schemes.* These schemes have almost no link to the real economy and are sometimes called “in-game only” schemes.<sup>3</sup> Users usually pay a subscription fee and then earn virtual money based on their online performance. The virtual currency can only be spent by purchasing virtual goods and services offered within the virtual community and, at least in theory, it cannot be traded outside the virtual community.

Example: World of Warcraft (WoW) Gold is a virtual currency used in this well-known online role-playing game designed by Blizzard Entertainment. Players have different options (with different subscription fees) for opening an account and starting to play. WoW Gold is needed as a means of exchange in the game, for instance in order for players to equip themselves well enough to reach higher levels. Players have several opportunities to earn WoW Gold within the game. Buying and selling WoW Gold in the real world is strictly forbidden under the terms and conditions established by Blizzard Entertainment.<sup>1</sup>

<sup>1</sup> However, there seems to be a black market for buying and selling WoW Gold outside the virtual currency scheme. If Blizzard Entertainment discovers any illegal exchange, it can suspend or ban a player's account.

<sup>1</sup> For the time being, there seems to be no virtual currency exchange system for transferring and exchanging money between the different virtual communities. This situation could change if initiatives, such as “Currency Connect” (<http://www.currencyconnect.com/>) succeed.

<sup>2</sup> There may be exceptions. For instance, e-gold (<http://www.e-gold.com/>) is a virtual currency scheme, which was founded in 1996 and is operated by Gold & Silver Reserve Inc. trading as e-gold Ltd. This currency is 100% backed by physical gold (or silver, platinum and palladium) held in locations around the world, such as London or Zurich. Users opening an e-gold account are actually buying a quantity of gold. The value of the account is linked to the price of gold. The system, which also allows the transfer of money to other users, operates with some companies acting as market makers, buying and selling this virtual currency (i.e. the underlying metal) against other currencies. The US authorities have accused this scheme of violating anti-money laundering regulations. In 2008 the company's founder and two senior directors agreed to plead guilty to various charges related to money laundering and the operation of an unlicensed money transfer business. In 2009 the company contacted the US Government in order to reconvert its activity. The dialogue culminated in the development of a Value Access Plan acceptable to both the company and the Government. Once this plan is implemented, the expectation is that users will again have access to the value in their accounts.

<sup>3</sup> Strauss (2010).

- 2) *Virtual currency schemes with unidirectional flow.* The virtual currency can be purchased directly using real currency at a specific exchange rate, but it cannot be exchanged back to the original currency. The conversion conditions are established by the scheme owner. Type 2 schemes allow the currency to be used to purchase virtual goods and services, but some may also allow their currencies to be used to purchase real goods and services.

Example 1: Facebook Credits (FB), Facebook's virtual currency was introduced in 2009 to allow users to buy virtual goods in any application on the Facebook platform. It was possible to buy this currency using a credit card, PayPal account or a variety of other payment methods. A purchase made using any other currency than US dollars would undergo a conversion into US dollars using a daily exchange rate, before being exchanged for Facebook Credits at the rate of FB 1 = USD 0.10. Users were able to gain additional Facebook Credits through special promotions, for instance if they made online purchases. The terms on the website did not provide for a conversion back to US dollars.<sup>1</sup> Surprisingly, in June 2012 the company announced that it would "update the payments product" and that it would convert all prices and balances that were quoted in Facebook Credits into local currency amounts starting in July 2012.<sup>2</sup>

Example 2: The virtual currency scheme set up by Nintendo, called Nintendo Points, can be redeemed in Nintendo's shops and in their games. Consumers can purchase points online by using a credit card or in retail stores by purchasing a Nintendo Points Card. The Points cannot be converted back to real money.

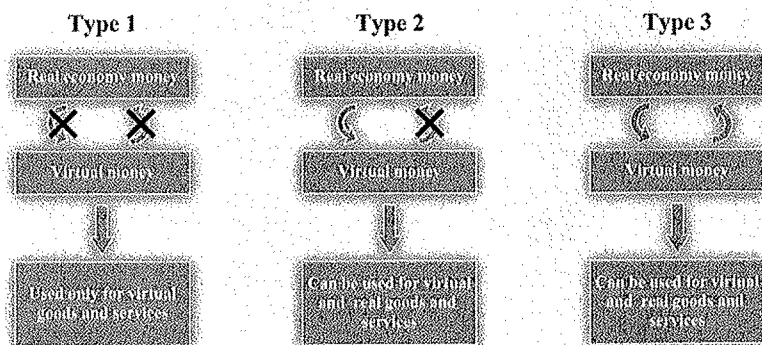
<sup>1</sup> See Liu (2010).

<sup>2</sup> See <http://developers.facebook.com/blog/post/2012/06/19/introducing-subscriptions-and-local-currency-pricing/>

- 3) *Virtual currency schemes with bidirectional flow.* Users can buy and sell virtual money according to the exchange rates with their currency. The virtual currency is similar to any other convertible currency with regard to its interoperability with the real world. These schemes allow for the purchase of both virtual and real goods and services.

Example: Linden Dollars (L\$) is the virtual currency issued in Second Life, a virtual world where users create "avatars", i.e. digital characters that can be customised. Second Life has its own economy where users can buy and sell goods and services from and to each other. In order to do so, they need Linden Dollars, which can be purchased with US dollars and other currencies according to the exchange rates established in the currency trading market. A credit card or PayPal account is needed. Users can sell their spare Linden Dollars in return for US dollars.

Chart 2 Types of virtual currency scheme



Source: ECB.

Note: A subscription fee may be required for Type 1.

## Box 1

## FREQUENT-FLYER PROGRAMMES

Loyalty programmes in the form of vouchers, coupons and bonus points have long existed. Airlines' points/air miles programmes are one of these reward systems implemented to increase frequent flyers' loyalty towards the company. Every time a customer buys a flight or pays with a credit card linked to the frequent-flyer programme, they receive additional air miles that can be exchanged for free flights or for an upgrade to business class.

As highlighted by The Economist (2005), these programmes have reached outstanding values, even surpassing the total amount of dollar notes and coins in circulation (i.e. the M0 supply). Airline companies also sell miles to credit card firms, generating substantial additional revenue for airlines. In addition, these programmes form part of the airlines' marketing and business strategies. By providing the frequent flyer with air miles for buying a flight at a particular time or, on the contrary, by making it harder to spend air miles (e.g. requesting more air miles for a free flight or restricting the number of seats available), the airlines can influence their customers' demand. In practice, this means that the airlines can manage the supply of air miles according to their own strategy.

Based on the definition and concept of virtual currency schemes developed in this section, frequent-flyer programmes can be viewed as a specific type of virtual currency scheme, which exhibits the following features:

- Users usually receive air miles for buying a flight, but they can also earn them in many other ways (e.g. by paying with a linked credit card, by responding to a promotion, etc.). Users can also buy air miles with real money at a specific exchange rate.

- Once the money is in the system, it cannot legally be redeemed into real money. However, as is the case with other virtual currencies, there may also be a black market for air miles.
- Air miles can be used to purchase real goods, i.e. flights. However, it seems that some schemes also allow air miles to be used when buying other real goods and services, but this practice seems to be marginal at this stage.

Taking all these elements into account, it is possible to classify the airlines' frequent-flyer programmes as characteristic of the Type 2 virtual currency schemes.

## 2.2 VIRTUAL CURRENCY SCHEMES AND ELECTRONIC MONEY

Virtual currency schemes can be considered to be a specific type of electronic money, basically used for transactions in the online world. However, a clear distinction should be made between virtual currency schemes and electronic money (see also Table 2).

According to the Electronic Money Directive (2009/110/EC), "electronic money" is monetary value as represented by a claim on the issuer which is: stored electronically; issued on receipt of funds of an amount not less in value than the monetary value issued; and accepted as a means of payment by undertakings other than the issuer.

Although some of these criteria are also met by virtual currencies, there is one important difference. In electronic money schemes the link between the electronic money and the traditional money format is preserved and has a legal foundation, as the stored funds are expressed in the same unit of account (e.g. US dollars, euro, etc.). In virtual currency schemes the unit of account is changed into a virtual one (e.g. Linden Dollars, Bitcoins). This is not a minor issue, specifically in Type 3 schemes. Firstly, these schemes rely on a specific exchange rate that may fluctuate, since the value of the virtual currency is usually based on its own demand and supply. Secondly, to some extent the conversion blurs the link to traditional currency, which might be problematic when retrieving funds, if this is even permitted. Lastly, the fact that the currency is denominated differently (i.e. not in euro, US dollar, etc.) and that the funds do not need to be redeemed at par value means that complete control of the virtual currency is left to its issuer, which is usually a non-financial company.

Table 2 Differences between electronic money schemes and virtual currency schemes

	Electronic money schemes	Virtual currency schemes
Money format	Digital	Digital
Unit of account	Traditional currency (euro, US dollars, pounds, etc.) with legal tender status	Invented currency (Linden Dollars, Bitcoins, etc.) without legal tender status
Acceptance	By undertakings other than the issuer	Usually within a specific virtual community
Legal status	Regulated	Unregulated
Issuer	Legally established electronic money institution	Non-financial private company
Supply of money	Fixed	Not fixed (depends on issuer's decisions)
Possibility of redeeming funds	Guaranteed (and at par value)	Not guaranteed
Supervision	Yes	No
Type(s) of risk	Mainly operational	Legal, credit, liquidity and operational

Source: ECB.

Moreover, electronic money schemes are regulated and electronic money institutions that issue means of payment in the form of electronic money are subject to prudential supervisory requirements. This is not the case for virtual currency schemes.

Consequently, the risks faced by each type of money are different. Electronic money is primarily subject to the operational risk associated with potential disruptions to the system on which the electronic money is stored. Virtual currencies are not only affected by credit, liquidity and operational risk without any kind of underlying legal framework, these schemes are also subject to legal uncertainty and fraud risk, as a result of their lack of regulation and public oversight.

The definition of virtual currency schemes used in this report excludes an entity like PayPal, the internet-based payment system. Although a virtual account is created, no virtual currency is issued in the PayPal environment. A PayPal account is funded via credit transfer from a bank account or by a credit card payment, i.e. it operates within the banking system. Besides, its European subsidiary is based in Luxembourg and has been operating with an EU banking licence since 2007. As a consequence, PayPal is supervised by the Commission de Surveillance du Secteur Financier of Luxembourg and the electronic money scheme is overseen by the Banque centrale du Luxembourg.

### 2.3 PAYMENT ARRANGEMENTS IN VIRTUAL CURRENCY SCHEMES

Just like in the real economy, in a virtual economy there are a wide range of economic actors who engage in transactions that have to be settled. These transactions have two settlement components: a) the delivery of (usually virtual, but potentially also real) goods and services; and b) the transfer of funds.

A “payment system” can be defined as a set of instruments, procedures, and rules for the transfer of funds among system participants. It is typically based on an agreement between the participant in the system and the system operator, and the transfer of funds is conducted using an agreed technical infrastructure.<sup>4</sup> In essence, virtual currency schemes work much like retail payment systems, except for the fact that financial intermediaries are not usually involved in the payment process. Virtual currency schemes demonstrate three main elements or processes of a retail payment system:<sup>5</sup>

- a) A payment instrument is used as the means of authorising and submitting the payment.
- b) Processing and clearing involves a payment instruction being exchanged between the creditor and the debtor concerned.
- c) Debits and credits are settled in the user’s account.

Although there are different models that may lead to important variations, the following specific features can typically be observed for payment arrangements within virtual currency schemes:

- *Agents involved:* Virtual currencies are held outside the traditional banking channels. A non-financial institution plays the crucial role and there are no other institutions providing payment accounts or payment services, or organisations that operate payment, clearing and settlement services. In this regard, virtual currency schemes work like traditional three-party schemes

<sup>4</sup> BIS (2001), p. 14, and ECB Glossary of Terms Related to Payment, Clearing and Settlement Systems.

<sup>5</sup> Kokkolu (ed.) (2010), p. 25.

with a scheme-owned processor. The accounts to be debited and credited are held within this organisation, which is the virtual community operator. Virtual currency payments are therefore handled “in house” and can be classified as a specific type of “on-us” transaction, that is, a transfer of a claim on the virtual currency issuer.

- *Type of transactions:* From a conceptual perspective, payments can be classified as retail payments, i.e. a large number of payments with small values. The payment instrument is typically a virtual credit transfer.
- *Type of settlement:* Payments are usually settled on a gross basis. Each payment instruction is passed on and settled individually across the accounts of the payer and the payee, resulting in a debit and credit entry for every single payment instruction settled. As a general rule, the settlement is in real time, i.e. on a continuous basis throughout an entire day.

#### 2.4 REASONS FOR IMPLEMENTING VIRTUAL CURRENCY SCHEMES

There are several reasons for a virtual community to issue its own virtual currency. By implementing a virtual currency scheme focused on the online world (basically for virtual goods and services) a company can generate additional revenue. The use of virtual currencies can help motivate users by simplifying transactions and by preventing them from having to enter their personal payment details every time they want to make a purchase. It can also help lock users in if, for instance, it is possible to earn virtual money by logging in periodically. If users are asked to fill out a survey or to answer other questions in order to earn extra virtual money, users reveal their preferences, thereby providing valuable information for commercial use. Virtual currencies can also be used as an important tool for application developers and advertisers when designing a strategy to reap the benefits of the virtual goods market.

At this stage, it is very difficult to come up with a reliable figure for the size of the virtual goods market.<sup>6</sup> On the one hand, there is no universal criterion of what the virtual goods market encompasses. On the other hand, innovations in this field are growing and spreading significantly and, therefore, it is nearly impossible to gather the information necessary to provide a complete picture of the virtual communities and virtual currency schemes that exist. Nevertheless, there are a few estimates circulating on the internet. These show the modest magnitude that this market, which is particularly concentrated in Asia and the United States, may have reached (see Chart 3). Although most of these estimates are not made on a scientific basis, they all indicate that the size of the virtual goods market is far from reaching its potential and that it will grow in the future.

Traditional payment service providers do not want to get left behind either. VISA, for instance, recently acquired PlaySpan Inc. for USD 190 million, with additional considerations for performance milestones. PlaySpan is a privately held company, whose payments platform handles transactions for digital goods in online games, digital media and social networks around the world.<sup>7</sup>

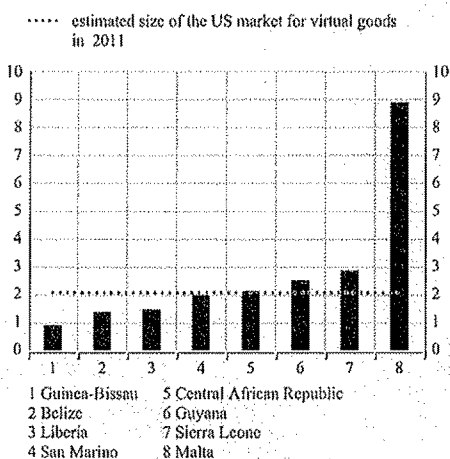
6 A virtual good or resource can be defined as “any virtual-world object/service that increases [...] satisfaction, desirability or usefulness, for example, website goodwill, e-books, music files, game equipments, rights to access web, or e-payment services a site provides” (Guo, Chow and Gong, 2009, p. 85). Therefore, an illustration of a flower sent to someone else in a social network or better equipment for a character which is needed to reach higher levels in an online game are two examples of virtual goods that are sold in virtual communities. However, in our view, there should be a clear differentiation between goods that are used only in the virtual environment and those which are used in the real world (e.g. music files or electronic books).

7 See the company’s press release (<http://corporate.visa.com/media-center/press-releases/press1099.jsp>).

Chart 3 Estimates for the size of the virtual goods market

(USD billions)

## GDP in selected countries, 2011



Sources: IMF World Economic Outlook database and Smith and Hudson (2010) estimate.

Source	Estimated size
C. Hudson (2008) <i>SoftTech VC and Bionic Panda Games</i>	USD 200 million in 2008
C. C. Miller and B. Stone (2009) <i>New York Times</i>	USD 1 billion in the United States in 2008; USD 5 billion worldwide
B. Parr (2009) <i>Mashable</i>	USD 1 billion in the US market; USD 7 billion in the Asian market
A. Shukla (2008) <i>Offerpal Media</i>	USD 2 billion in the United States in 2008
J. Smith and C. Hudson (2010) <i>Inside Network</i>	USD 1.6 billion in the United States in 2010; will reach USD 2.1 billion overall in 2011
M. Shiels (2009) <i>BBC News</i>	USD 5 billion in the United States in five years; in Asia this figure has already been reached

In September 2011, American Express paid USD 30 million for Sometrics, a four-year-old company that helps video game makers establish virtual currencies and virtual currency commerce within their games.<sup>8</sup> Apparently, the company plans to build a virtual currency platform in other industries, taking advantage of its merchant relationships.

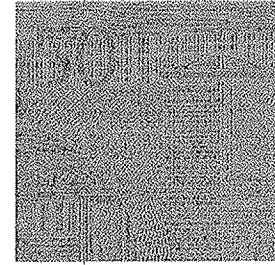
An additional reason for implementing a virtual currency scheme is the possibility, in Type 2 and 3 schemes, to obtain new revenue from the float that results from the time difference between the moment at which money is transferred into the system and the moment at which it is taken out from the system again (either – in Type 3 only – via a currency exchange or – for both types – following the purchase of goods and services from third parties). In addition, scheme owners may also make a breakage profit from money which is not spent or exchanged back after its owners stop being active users.

In general, the motivation for setting up Type 3 schemes may differ from the incentives for the other schemes; of particular interest are the schemes designed to compete against real currencies as a medium of exchange. For the time being, the most prominent case is Bitcoin which, according to its creators and supporters, should overcome the limitations of traditional currencies that result from the monopolistic supply and management by central banks.

<sup>8</sup> See Button (2011).







### 3 CASE STUDIES

This chapter focuses on two prominent Type 3 virtual currency schemes; the first is Bitcoin and the second is the scheme established by Linden Lab for Second Life, namely Linden Dollars.

#### 3.1 THE BITCOIN SCHEME

##### 3.1.1 BASIC FEATURES

Bitcoin is probably the most successful – and probably most controversial – virtual currency scheme to date. Designed and implemented by the Japanese programmer Satoshi Nakamoto in 2009,<sup>1</sup> the scheme is based on a peer-to-peer network similar to BitTorrent, the famous protocol for sharing files, such as films, games and music, over the internet. It operates at a global level and can be used as a currency for all kinds of transactions (for both virtual and real goods and services), thereby competing with official currencies like the euro or US dollar. The scheme maintains a database that lists product and service providers which currently accept Bitcoins.<sup>2</sup> These products and services range from internet services and online products to material goods (e.g. clothing and accessories, electronics, books, etc.) and professional or travel/tourism services. Bitcoins are divisible to eight decimal places enabling their use in any kind of transaction, regardless of the value. Although Bitcoin is a virtual currency scheme, it has certain innovations that make its use more similar to conventional money (see Box 3 in Chapter 4).

Bitcoins are not pegged to any real-world currency. The exchange rate is determined by supply and demand in the market. There are several exchange platforms for buying Bitcoins that operate in real time.<sup>3</sup> Mt.Gox is the most widely used currency exchange platform and allows users to trade US dollars for Bitcoins and vice versa. As previously stated, Bitcoin is based on a decentralised, peer-to-peer (P2P) network, i.e. it does not have a central clearing house, nor are there any financial or other institutions involved in the transactions. Bitcoin users perform these tasks themselves. In the same vein, there is no central authority in charge of the money supply. As will be explained later, the money supply is determined by a specific type of “mining” activity. It depends on the amount of resources (electricity and CPU time) that “miners” devote to solving specific mathematical problems.

In order to start using Bitcoins, users need to download the free and open-source software. Purchased Bitcoins are thereafter stored in a digital wallet on the user’s computer. Consequently, users face the risk of losing their money if they don’t implement adequate antivirus and back-up measures. Users have several incentives to use Bitcoins. Firstly, transactions are anonymous, as accounts are not registered and Bitcoins are sent directly from one computer to another.<sup>4</sup> Also, users have the possibility of generating multiple Bitcoin addresses to differentiate or isolate transactions. Secondly, transactions are carried out faster and more cheaply than with traditional means of payment. Transactions fees, if any, are very low and no bank account fee is charged.

1 However, this is not his/her real name. See the entry on the Bitcoin wiki ([https://en.bitcoin.it/wiki/Satoshi\\_Nakamoto](https://en.bitcoin.it/wiki/Satoshi_Nakamoto)). The content of this chapter partially relies on the information provided by Bitcoin (<http://www.bitcoin.org/>) and the Bitcoin community (<https://en.bitcoin.it/wiki/FAQ>). The original paper by Nakamoto (2009) is also used.

2 See <https://en.bitcoin.it/wiki/Trade>

3 These are Mt.Gox, TradeHill (closed down in 2012), Bitomat, Britcoin, Intersango, ExchangeBitcoin.com, Camp BX, Bitcoin7, VirtEx, VirWox or WM-Center. For smaller amounts, the options are limited due to bank transfer fees, conversion fees and restrictions on transaction size. Options include Bitcoin Market, BitMarket.eu, Bitoiny.cz, Bit / BTC China, Bitfunnel, #bitcoin-etc, BitcoinExchange Services, Lilion Transfer, Nanaimo Gold, Bitcoin Morpheus, Bitcoin Argentina, Bitcoin.com.es, Bahitecoin, Bitcoin Brasil, BitPiggy, GetBitcoin, Bitcoin 4 Cash, Bitcoin2Cash, bitcoin.local, YouTipl and Ubitex.

4 However, it seems that all Bitcoin transactions are recorded and can, under certain circumstances (e.g. law enforcement), be traced.

## ECONOMIC FOUNDATIONS OF BITCOIN

The theoretical roots of Bitcoin can be found in the Austrian school of economics and its criticism of the current fiat money system and interventions undertaken by governments and other agencies, which, in their view, result in exacerbated business cycles and massive inflation.

One of the topics upon which the Austrian School of economics, led by Eugen von Böhm-Bawerk, Ludwig von Mises and Friedrich A. Hayek, has focused is business cycles.<sup>1</sup> In short, according to the Austrian theory, business cycles are the inevitable consequence of monetary interventions in the market, whereby an excessive expansion of bank credit causes an increase in the supply of money through the money creation process in a fractional-reserve banking system, which in turn leads to artificially low interest rates.<sup>2</sup> In this situation, the entrepreneurs, guided by distorted interest rate signals, embark on overly ambitious investment projects that do not match consumers' preferences at that time relating to intertemporal consumption (i.e. their decisions regarding near-term and future consumption). Sooner or later, this widespread imbalance can no longer be sustained and leads to a recession, during which firms need to liquidate any failed investment projects and readapt (restructure) their production structures in line with consumers' intertemporal preferences. As a result, many Austrian School economists call for this process to be abandoned by abolishing the fractional-reserve banking system and returning to money based on the gold standard, which cannot be easily manipulated by any authority.

Another related area in which Austrian economists have been very active is monetary theory. One of the foremost names in this field is Friedrich A. Hayek. He wrote some very influential publications, such as *Denationalisation of Money* (1976), in which he posits that governments should not have a monopoly over the issuance of money. He instead suggests that private banks should be allowed to issue non-interest-bearing certificates based on their own registered trademarks. These certificates (i.e. currencies) should be open to competition and would be traded at variable exchange rates. Any currencies able to guarantee a stable purchasing power would eliminate other less stable currencies from the market.<sup>3</sup> The result of this process of competition and profit maximisation would be a highly efficient monetary system where only stable currencies would coexist.

The following ideas are generally shared by Bitcoin and its supporters:

- They see Bitcoin as a good starting point to end the monopoly central banks have in the issuance of money.
- They strongly criticise the current fractional-reserve banking system whereby banks can extend their credit supply above their actual reserves and, simultaneously, depositors can withdraw their funds in their current accounts at any time.
- The scheme is inspired by the former gold standard.

1 A description of the Austrian Business Cycle Theory can be found, for instance, in Rothbard (2009).

2 Fractional-reserve banking is a form of banking where credit institutions maintain reserves (in cash and coin or in deposits at the central bank) that are only a fraction of their customers' deposits. Funds deposited into a bank are mostly lent out, and banks keep only a fraction (called the reserve ratio) of the quantity of deposits as reserves. Modern banking systems are based on fractional-reserve banking.

3 An interesting speech on this issue can be found in Issing (1999).

Although the theoretical roots of the scheme can be found in the Austrian School of economics, Bitcoin has raised serious concerns among some of today's Austrian economists. Their criticism covers two general aspects:<sup>4</sup> a) Bitcoins have no intrinsic value like gold; they are mere bits stored in a computer; and b) the system fails to satisfy the "Misesian Regression Theorem", which explains that money becomes accepted not because of a government decree or social convention, but because it has its roots in a commodity expressing a certain purchasing power.

4 As described in Matonis (2011).

### 3.1.2 TECHNICAL DESCRIPTION OF A BITCOIN TRANSACTION

The technical aspects of this system are complex and not easy to understand without a sound technical background. Therefore, a comprehensive explanation of the underlying technical mechanism of Bitcoin lies outside the scope of this report. This section aims simply to provide a basic description of the functioning of this virtual currency scheme. According to the founder, Nakamoto (2009), an electronic coin can be defined as a chain of digital signatures. Each owner of the currency ( $P^i$ ) has a pair of keys, one public and one private. These keys are saved locally in a file and, consequently, a loss or deletion of the file would mean that all Bitcoins associated with it are lost as well.<sup>5</sup>

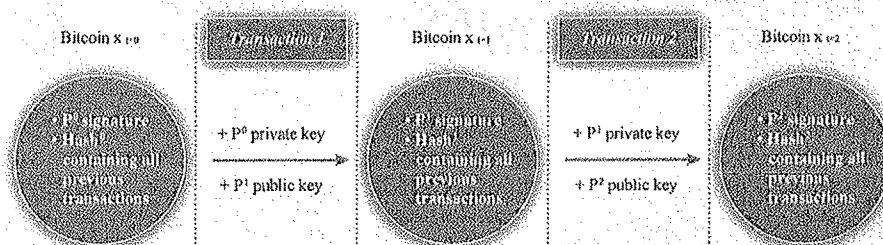
A simplified illustration of a chain of transactions from one node to another can be found in Chart 4. The virtual coin shown in the picture is the same one, but at different points in time. To initiate the transaction, the future owner  $P^1$  has to first send his public key to the original owner  $P^0$ . This owner transfers the Bitcoins by digitally signing a hash<sup>6</sup> of the previous transaction and the public key of the future owner. Every single Bitcoin carries the entire history of the transactions it has undergone, and any transfer from one owner to another becomes part of the code. The Bitcoin is stored in such a way that the new owner is the only person allowed to spend it.

All signed transactions are then sent to the network, which means that all transactions are public transactions, although no information is given regarding the involved parties. The key issue to be addressed by the system is the avoidance of double spending, i.e. how to prevent a coin being copied or forged, especially considering there is no intermediary validating the transactions. The solution implemented is based on the concept of a "time stamp", which is an online mechanism

5 Users can also use specific web services to store their money. These services allow people to access their money from everywhere, but also entail risks as users are outsourcing the management of their money to an unknown third party.

6 A hash, or hash value, is the value returned by an algorithm that maps large data sets to smaller data sets of fixed length.

Chart 4 A chain of Bitcoin transactions



Source: ECB.

used to ensure that a series of data have existed and have not been altered since a specific point in time, in order to get into the hash. Each time stamp includes the previous time stamp in its hash, forming a chain of ownership. By broadcasting the new transactions, the network can verify them. The systems that validate the transactions are called “miners” – essentially these are extremely fast computers in the Bitcoin network which are able to perform complex mathematical calculations that aim to verify the validity of transactions. The people who use their systems to undertake this mining activity do so on a voluntary basis, but they are rewarded with 50 newly created Bitcoins every time their system finds a solution.

“Mining” is therefore the process of validating transactions by using computing power to find valid blocks (i.e. to solve complicated mathematical problems) and is the only way to create new money in the Bitcoin scheme.<sup>7</sup>

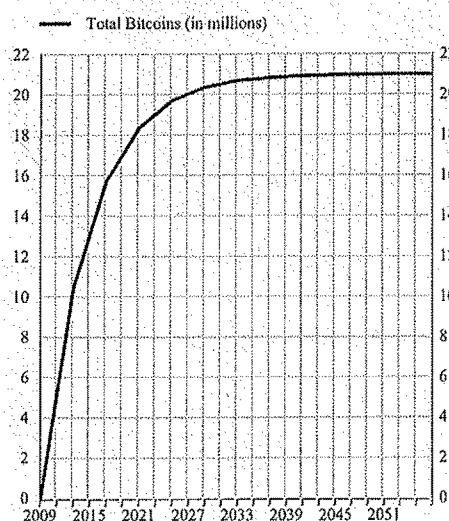
According to Nakamoto (2009), mining is also a very reliable procedure for the security and safety of the system as it provides the incentive to act honestly: “if a greedy attacker is able to assemble more CPU power than all the honest nodes, he would have to choose between using it to defraud people by stealing back his payments, or by using it to generate new coins. He ought to find it more profitable to play by the rules, such rules that favour him with more new coins than everyone else combined, than to undermine the system and the validity of his own wealth”. However, as will be explained later, fraudsters may still have non-financial incentives to compromise the system.

### 3.1.3 MONETARY ASPECTS

The Bitcoin scheme is designed as a decentralised system where no central monetary authority is involved. Bitcoins can be bought on different platforms. However, new money is created and introduced into the system only via the above-mentioned mining activity, i.e. by rewarding the “miners” who perform the crucial role of validating all transactions made, with new Bitcoins.

Therefore, the supply of money does not depend on the monetary policy of any virtual central bank, but rather evolves based on interested users performing a specific activity. According to Bitcoin, the scheme has been technically designed in such a way that the money supply will develop at a predictable pace (see Chart 5). The algorithms to be solved (i.e. the new blocks to be discovered) in order to receive newly created Bitcoins become more and more complex (more computing resources are

Chart 5 Total Bitcoins ever time



Source: Bitcoin.

<sup>7</sup> As stated on the Bitcoin website, from a technical point of view, mining is the calculation of a hash of a block header, which includes, among other things, a reference to the previous block, a hash of a set of transactions and a nonce (a 32-bit/4-byte field whose value is set so that the hash of the block will contain a run of zeros). If the hash value is found to be less than the current target (which is inversely proportional to the difficulty), a new block is formed and the miner gets 50 newly generated Bitcoins. If the hash is not less than the current target, a new nonce is tried, and a new hash is calculated. This is done millions of times per second by each miner.

needed). As explained on its website,<sup>8</sup> the rate of block creation is approximately constant over time: six per hour, one every ten minutes. However, the number of Bitcoins generated per block is set to decrease geometrically, with a 50% reduction every four years. The result is that the number of Bitcoins in existence will reach 21 million in around 2040. From this point onwards, miners are expected to finance themselves via transaction fees. In fact, this kind of fee can already be charged by a miner when creating a block.

The fact that the supply of money is clearly determined implies that, in theory, the issuance of money cannot be altered by any central authority or participant wanting to “print” extra money. According to Bitcoin supporters, the system is supposed to avoid inflation, as well as the business cycles originating from extensive money creation. However, the system has been accused of leading to a deflationary spiral. The total supply of Bitcoins is expected to grow geometrically until it reaches a finite limit of 21 million. If, however, the number of Bitcoin users starts growing exponentially for any reason, and assuming that the velocity of money does not increase proportionally, a long-term appreciation of the currency can be expected or, in other words, a depreciation of the prices of the goods and services quoted in Bitcoins. People would have a great incentive to hold Bitcoins and delay their consumption, thereby exacerbating the deflationary spiral. The extent to which this could be a problem in reality is not clear. Two remarks should be made. Firstly, as highlighted by the Economist (2011a), the deflation hypothesis entails an assumption which is not realistic at this stage, i.e. that many more people will want to receive Bitcoins in return for goods or in exchange for paper money. However, Bitcoin is still quite immature and illiquid (the 6.5 million Bitcoins are shared by 10,000 users) which is a clear disincentive for its use. Secondly, Bitcoin is not the currency of a country or currency area and is therefore not directly linked to the goods and services produced in a specific economy, but linked to the goods and services provided by merchants who accept Bitcoins. These merchants may also accept another currency (e.g. US dollars) and therefore, the fact that deflation is anticipated could give rise to a situation where merchants adapt the prices of their goods and services in Bitcoins.

#### 3.1.4 SECURITY INCIDENTS AND NEGATIVE PRESS

From time to time, Bitcoin is surrounded by controversy. Sometimes it is linked to its potential for becoming a suitable monetary alternative for drug dealing and money laundering, as a result of the high degree of anonymity.<sup>9</sup> On other occasions, users have claimed to have suffered a substantial theft of Bitcoins through a Trojan that gained access to their computer.<sup>10</sup> The Electronic Frontier Foundation, which is an organisation that seeks to defend freedom in the digital world, decided not to accept donations in Bitcoins anymore. Among the reasons given, they considered that “Bitcoin raises untested legal concerns related to securities law, the Stamp Payment Act, tax evasion, consumer protection and money laundering, among others”.<sup>11</sup>

However, practically identical problems can also occur when using cash, thus Bitcoin can be considered to be another variety of cash, i.e. digital cash. Cash can be used for drug dealing and money laundering too; cash can also be stolen, not from a digital wallet, but from a physical one; and cash can also be used for tax evasion purposes. The question is not so much related to the format of money as such (physical or digital), but rather to the use people make of it. Nevertheless, if the use of digital money in itself complicates investigations and law enforcement, special requirements may be needed. Therefore, the real dimension of all these controversies still needs to be further analysed.

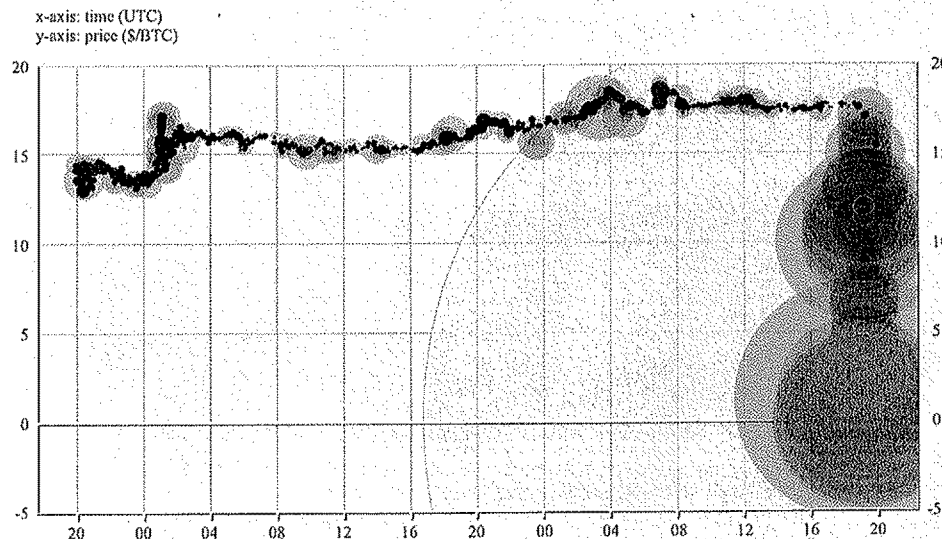
<sup>8</sup> See [https://en.bitcoin.it/wiki/Controlled\\_inflation](https://en.bitcoin.it/wiki/Controlled_inflation)

<sup>9</sup> See, for instance, <http://gawker.com/5805928/the-underground-website-where-you-can-buy-any-drug-imaginable>

<sup>10</sup> One user claims to have lost 25,000 Bitcoins worth USD 500,000. See <http://forum.bitcoin.org/index.php?topic=16457.0>

<sup>11</sup> Announced by Cindy Cohn, Legal Director for the Foundation. See <http://www EFF.org/deeplinks/2011/06/eff-and-bitcoin>

Chart 6 Mt.Gox exchange rate on 20 June 2011



Source: Mt.Gox.

Bitcoin has also featured in the news, in particular following a cyberattack perpetrated on 20 June 2011, which managed to knock the value of the currency down from USD 17.50 to USD 0.01 within minutes. Apparently, around 400,000 Bitcoins (worth almost USD 9 million) were involved. According to currency exchange Mt.Gox, one account with a lot of Bitcoins was compromised and whoever stole it (using a Hong Kong based IP to login) first sold all the Bitcoins in there, only to buy them back again immediately afterwards, with the intention of withdrawing the coins. The USD 1,000/day withdrawal limit was active for this account and the hacker was only able to exchange USD 1,000 worth of Bitcoins. Apart from this, no other accounts were compromised, and nothing was lost.<sup>12</sup>

Chart 6 shows the evolution of Bitcoin's exchange rate on the Mt.Gox exchange platform during the hours of the incident, and is also the expression of how an immature and illiquid currency can almost completely disappear within minutes, causing panic to thousands of users.

In addition, the perpetrator hacked into the Mt.Gox database, gaining access to usernames, e-mail addresses and hashed passwords for thousands of users. Mt.Gox reacted by closing the system for a few days and by promising that the transactions carried out by the hacker would be reversed. Bitcoin defenders claim that the Bitcoin system did not fail. The problem was related to a particular trading platform – Mt.Gox – which did not have strong enough security measures.

In a more recent case (May 2012), the exchange platform Bitcoinica lost 18,547 Bitcoins from its deposits following a cyberattack, in which sensitive customer data might also have been obtained.<sup>13</sup>

<sup>12</sup> See Mt.Gox press release [https://mtgox.com/press\\_release\\_20110630.html](https://mtgox.com/press_release_20110630.html)

<sup>13</sup> See <http://www.finextra.com/News/Fullstory.aspx?newsitemid=23713>

Another recurrent issue is whether Bitcoin works like a Ponzi scheme or not. Users go into the system by buying Bitcoins against real currencies, but can only leave and retrieve their funds if other users want to buy their Bitcoins, i.e. if new participants want to join the system. For many people, this is characteristic of a Ponzi scheme. The US Securities and Exchange Commission defines a Ponzi scheme in the following terms:

A Ponzi scheme is an investment fraud that involves the payment of purported returns to existing investors from funds contributed by new investors. Ponzi scheme organizers often solicit new investors by promising to invest funds in opportunities claimed to generate high returns with little or no risk. In many Ponzi schemes, the fraudsters focus on attracting new money to make promised payments to earlier-stage investors and to use for personal expenses, instead of engaging in any legitimate investment activity.<sup>14</sup>

On the one hand, the Bitcoin scheme is a decentralised system where – at least in theory – there is no central organiser that can undermine the system and disappear with its funds. Bitcoin users buy and sell the currency among themselves without any kind of intermediation and therefore, it seems that nobody benefits from the system, apart from those who benefit from the exchange rate evolution (just as in any other currency trade) or those who are hard-working “miners” and are therefore rewarded for their contribution to the security and confidence in the system as a whole. Moreover, the scheme does not promise high returns to anybody. Although some Bitcoin users may try to profit from exchange rate fluctuations, Bitcoins are not intended to be an investment vehicle, just a medium of exchange. On the contrary, Gavin Andresen, Lead Developer of the Bitcoin virtual currency project, does not hesitate to say that “Bitcoin is an experiment. Treat it like you would treat a promising internet start-up company: maybe it will change the world, but realise that investing your money or time in new ideas is always risky”.<sup>15</sup> In addition, Bitcoin supporters claim that it is an open-source system whose code is available to any interested party.

However, it is also true that the system demonstrates a clear case of information asymmetry. It is complex and therefore not easy for all potential users to understand. At the same time, however, users can easily download the application and start using it even if they do not actually know how the system works and which risks they are actually taking. This fact, in a context where there is clear legal uncertainty and lack of close oversight, leads to a high-risk situation. Therefore, although the current knowledge base does not make it easy to assess whether or not the Bitcoin system actually works like a pyramid or Ponzi scheme, it can justifiably be stated that Bitcoin is a high-risk system for its users from a financial perspective, and that it could collapse if people try to get out of the system and are not able to do so because of its illiquidity. The fact that the founder of Bitcoin uses a pseudonym – Satoshi Nakamoto – and is surrounded by mystery does nothing to help promote transparency and credibility in the scheme.

All these issues raise serious concerns regarding the legal status and security of the system, as well as the finality and irrevocability of the transactions, in a system which is not subject to any kind of public oversight. In June 2011 two US senators, Charles Schumer and Joe Manchin, wrote to the Attorney General and to the Administrator of the Drug Enforcement Administration expressing their worries about Bitcoin and its use for illegal purposes. Mr Andresen was also asked to give a presentation to the CIA about this virtual currency scheme.<sup>16</sup> Further action from other authorities can reasonably be expected in the near future.

14 See <http://www.sec.gov/answers/ponzi.htm>

15 See <http://gavinthink.blogspot.com/2011/06/that-which-does-not-kill-us-makes-us.html>

16 According to Finextra (<http://www.finextra.com/news/fullstory.aspx?newsitemid=22644>) and Chapman (2011).



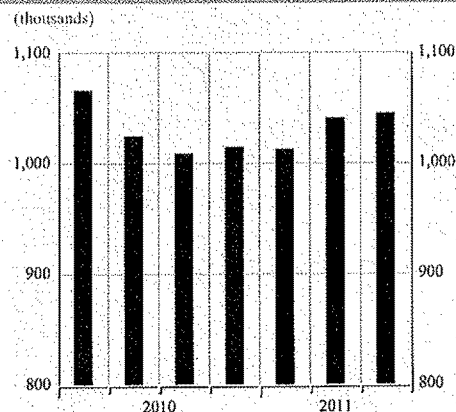
### 3.2 THE SECOND LIFE SCHEME

#### 3.2.1 BASIC FEATURES

Second Life is a virtual community created by Linden Lab (Linden Research, Inc.), a privately held company based in San Francisco. The company, whose CEO is Philip Rosedale, has developed a 'massively multiplayer online role-playing game', which was launched in June 2003. It is based on a three-dimensional modelling tool that allows users to build virtual objects.

The main idea behind Second Life is to create an opportunity for people to change all the things about their life that they dislike. This virtual world mirrors the real world, and its users – called residents – interact with each other and perform their daily tasks and activities just as they do in real life (e.g. meeting friends, playing, writing or organising a party). They can also engage in a business project or buy a house, a car or a yacht. In this virtual world, users do not have to face any kind of restriction.

Chart 7 Average number of users logging in each month



Source: Reports on Second Life Economy.

Users need to install software on their computers and open a free Second Life account to make use of the virtual world. A premium membership option (USD 9.95 per month, USD 22.50 quarterly, or USD 72 per year), which extends access to an increased level of technical support, is also available. Chart 7 shows that the average number of users logging in each month is quite stable at just above one million per month. The number of users registered on 28 November 2011 was more than 26 million. Once they have subscribed, users become residents and they can start using this online world by creating avatars – the residents' digital representation – which may take any form they choose (human, animal, vegetable, mineral, or a combination thereof) or even their own image in real life. A resident account can only have one avatar at a time. Nevertheless, residents are free to change the form of their avatars at any time. Residents can earn money in different ways. They can sell whatever they are able to create; they can also profit from their previous investments (e.g. buying a house and then selling it at a higher price), but they can also win prizes in events. In addition, premium accounts receive a weekly automatic grant of 300 Linden Dollars paid into the member's avatar account.

#### 3.2.2 SECOND LIFE ECONOMY

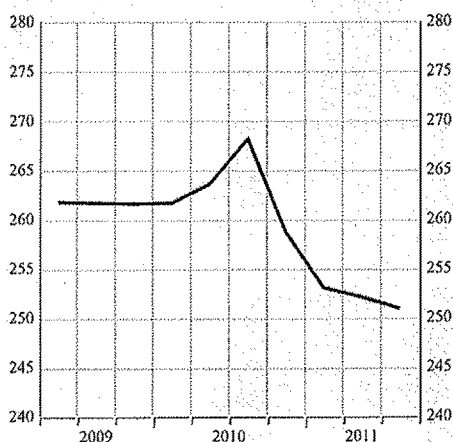
In the Second Life economy, people create items, such as clothes, games or spacecraft, and then sell them within the community. Most of the money earned comes from the virtual equivalent of land speculation, as people lease islands or erect buildings and then rent them out to others at a premium.<sup>17</sup> The economy within Second Life works in a similar way to any other economy in the world, but exhibits three specific features. Firstly, it is a self-sufficient economy, i.e. a closed economy where no activity is conducted with the outside; secondly, it is only focused on virtual goods and services; and thirdly, it is generated and takes place entirely within Linden Lab's infrastructure. Everything else is quite similar to a normal economy. Second Life has its own

<sup>17</sup> The Economist (2006).

economic agents (buyers, sellers and even an online-community regulator) interacting in its economic system and conducting commerce; the factors of production are the same as in a real economy (labour, capital and land); and the price system is the mechanism in charge of resource allocation. As a consequence, Second Life's output can be measured and, according to one estimate, the value of transactions increased by 94% on a year-on-year basis in 2009. Residents exchange goods and services worth around USD 600 million each year and the Second Life economy is estimated to be bigger in terms of GDP than 19 countries, including Samoa.<sup>18</sup> Although Second Life seems to have the largest output among the virtual communities, it is obvious that it is still far from reaching a significant volume. Second Life has its own financial system and exchange market. In 2006 this virtual community also started issuing its own virtual currency, called Linden Dollars (L\$). The Linden Dollar is a virtual currency that has to be purchased (e.g. by credit card or PayPal) before being used to buy virtual goods and services inside the Second Life community. In principle, real-world goods and services cannot be purchased with Linden Dollars.

Chart 8 Average exchange rate

(Linden Dollar/US dollar)



Source: Reports on Second Life Economy.

This currency can be bought through Linden Lab's currency brokerage, the LindeX Currency Exchange, or other third-party currency exchanges. It can also be converted back into real money. As can be seen in Chart 8, the exchange rate has been quite stable, at around L\$ 260 = USD 1. This is because Linden Lab tries to keep volatility low by injecting new Linden Dollars as demand increases. Therefore, it can be said that the Linden Dollar is, to some extent, pegged to the US dollar. According to the Second Life Economy in Q4 2010 report, the total LindeX volume traded in 2010 was nearly USD 119 million, 2.8% higher than in 2009.

Although Second Life's economy exists online, companies selling virtual goods and services can make real profits. Moreover, as reported by Elliot (2008), some companies are also starting to use the online world for merchandising their products. Companies, such as Cisco, Reuters, Dell, Sun Microsystems, Adidas, Starwood Hotels and Toyota have made use of the Second Life environment for marketing and brand-building purposes. In addition, some universities (e.g. Chicago Law School, the University of Idaho and New York University) and politicians (e.g. Hillary Clinton) have a presence in Second Life.

### 3.2.3 MONETARY ASPECTS

Second Life also has its own monetary policy, based on the supply of Linden Dollars by Linden Lab. As explained by Peng and Sun (2009), the total amount of this virtual currency in circulation depends on three elements: a) the net selling amount of Linden Dollars traded by Linden Lab on LindeX with users, which is similar to the open market operations conducted by central banks in the real world; b) Linden Lab's revenue in Linden Dollars from island sales and land rental to

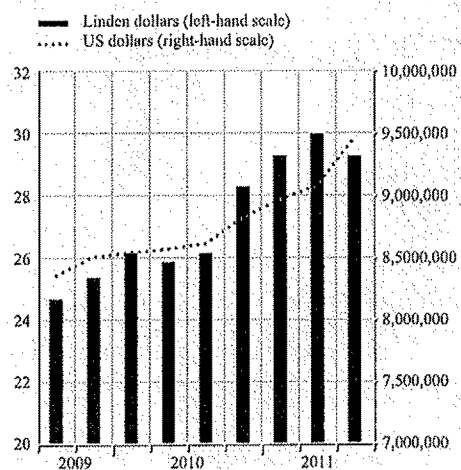
<sup>18</sup> Fleming (2010).

residents; and c) the Linden Dollar grant paid by Linden Lab to premium members. Only in the first and last cases is new money created. In its terms of service, the company clearly states that “Linden Dollars are available for purchase or distribution at Linden Lab’s discretion, and are not redeemable for monetary value from Linden Lab”. Furthermore, “Linden Lab has the right to manage, regulate, control, and/or modify the license rights underlying such Linden Dollars (...)”. In practice, it can be said that Linden Lab acts as the issuing bank in the Second Life environment. It can change the quantity of money in circulation as it wants and decide how to allocate these resources.

Chart 9 shows the evolution of the supply of Linden Dollars and, in order to provide an overview of the dimension of this virtual money supply, it is compared with the supply of US dollars. So far money supply is negligible and cannot therefore influence any state’s economy.

**Chart 9 Supply of Linden Dollars and US dollars**

(in US dollar millions)



Sources: Second Life and Federal Reserve.  
Notes: The US money stock is measured by M2 (not seasonally adjusted). The figures refer to the last month of every quarter.

Linden Lab’s money issuing policy within the virtual community has not escaped criticism. For example, Beller (2007) suggests that they may be creating an endogenous shock since Linden Lab finances its deficit by creating new Linden Dollars. A deficit in Second Life occurs when the weekly Linden Dollar grants that Linden Lab pays to premium account holders exceed its revenue from land rentals and other administrative services it provides to residents. Every time Linden Lab runs a deficit, the supply of money instantly increases by an equivalent amount. As a consequence, to finance its deficit, Linden Lab is “printing” Linden Dollars, rather than borrowing them from the market, i.e. it is not increasing its stock of public debt, instead creating new money which is not supported by real money.

This money creation process, which artificially inflates the money supply, could be creating a boom within Second Life’s economy that could lead to a recession if Linden Lab is forced to tighten its money supply. In this situation, a loss of confidence and a sudden depreciation of the Linden Dollar would be expected, causing all users that are involved in the virtual community to suffer some losses. In any case, it is important to highlight that this would only have a negative impact within the virtual community and for its users. Its effects would not spread to the real economy.

### 3.2.4 ISSUES WITH SECOND LIFE

Second Life is focused on the virtual world, but this does not mean that everything is virtual in this community. There are real economic transactions behind Second Life and there are also real issues and problems that arise. Within Second Life, Linden Lab is the only authority and regulator. To some extent they also oversee the system, but without the involvement of any public authority. It is not even clear if any authority even needs to be involved. In fact, in the current situation, any potential issue within this virtual marketplace can perhaps be regarded in the context of consumer protection rights.

Second Life goes beyond a regular online game. From an economic and financial point of view, Second Life exhibits specific features that link this virtual world with the real world. Firstly, as stressed above, some companies are starting to use the online world for merchandising their products. Also, virtual businesses have been set up and obtain real profits in Second Life. Secondly, it seems that some residents have been able to earn significant amounts of real money with their financial transactions, but in the process have assumed high levels of risk. In the past, some Second Life banks started offering very high interest rates on deposits, which motivated many users to change real money to buy Linden Dollars and deposit them in these banks. Such a high yield in a non-regulated environment raised some concerns with regard to the possibility that Second Life, or some users of Second Life, might actually be working like Ponzi schemes.<sup>19</sup> One case even appears to confirm this: Ginko Financial, a bank that used to pay very high interest rates to depositors (they could ostensibly reach up to 69.7% per year), went bankrupt in August 2007, causing losses of around USD 750,000 to some Second Life residents. After the collapse, Linden Lab introduced a rule prohibiting users from offering interest or any direct return on investment (whether in Linden Dollars or any other currency) from any object, such as an ATM, located in Second Life, without proof of an applicable government registration statement or financial institution charter.<sup>20</sup>

Second Life's real estate market has also developed quite quickly, basically fuelled by land speculation. In 2006, *Businessweek* magazine highlighted the case of Anshe Chung, a resident whose real name is Ailin Graef. Apparently, this woman (who lives in Frankfurt) has become the first online figure to achieve a net worth of more than one million US dollars; this has been achieved from profits entirely earned inside Second Life. This fortune is especially remarkable because she developed it over a period of two and a half years from her initial investment of USD 9.95, the amount required to open a premium account.<sup>21</sup> Her business is based on the purchase of virtual land and the construction of resorts (houses, mansions, beaches, etc.) that she sells or rents on to other residents.

In its role as unique authority and regulator, Linden Lab can control every single aspect within the community which, in turn, could have real economic consequences for its users. It could, for instance, make new rules, implement a new tax or eliminate a particular business without any kind of limitation, which gives this company near complete access to the funds circulating in the Second Life environment. For the time being, Linden Lab has used this power to ban specific businesses from Second Life, for instance internet gambling companies (in July 2007), but it could be used at any time for other purposes.

This is just one area in which uncertainty exists about Second Life, partially as a result of a lack of proper legal basis and oversight, but there are other situations in which this legal risk might materialise:

- Although Second Life has developed Digital Rights Management technology, there have been some claims related to the infringement of intellectual property rights. Moreover, a number of paying users have filed a class-action lawsuit against the company and its founder. Apparently, the terms of virtual property ownership were changed, and residents were forced to agree to new terms of service that eroded their ownership rights to virtual property and goods.<sup>22</sup>

19 For a critical assessment of Second Life, see Harrison (2007a,b).

20 For more information on this particular case, see <http://alphavilleherald.com/2007/08/ginko-financial-2.html> For more information on the Linden Lab Official Policy regarding in-world banks, see [http://wiki.secondlife.com/wiki/Linden\\_Lab\\_Official\\_New\\_Policy\\_Regarding\\_Inworld\\_Banks](http://wiki.secondlife.com/wiki/Linden_Lab_Official_New_Policy_Regarding_Inworld_Banks)

21 See *Businessweek* (2006) and [http://www.anshechung.com/include/press/press\\_release251106.html](http://www.anshechung.com/include/press/press_release251106.html)

22 See [http://news.cnet.com/8301-13577\\_3-20004004-36.html](http://news.cnet.com/8301-13577_3-20004004-36.html)

- According to Second Life's terms of service, Linden Lab is not required to pay any compensation if Linden Dollars are lost from the database. They are completely exonerated from any operational disruption that could happen in Second Life. As the system is not properly overseen, it is difficult to assess whether the operational risk and business continuity measures in place are enough to mitigate all potential risks.
- In the same vein, Linden Lab is not liable for its users' actions, and is released from any claims relating to other users. Its liability is also limited in the event of security incidents. Linden Lab is trying to gather information on all incidents reported and is implementing different policies to avoid them. However, although there seems to be a decreasing trend, incidents have continued to be reported in recent years.

Special attention also needs to be paid to counterparty risk and fraud risk. Users are not protected against either, but both are real risks that exist in this virtual environment. Users generally do not know the reliability of the counterparty with which they are doing business. In this context, the lack of regulation and information required to open an account might create the adequate conditions for criminals, terrorists, fraudsters and money launderers.<sup>23</sup> The extent to which any money flows can be traced back to a particular user is unknown.

To sum up, every criminal act which takes place in the real world might also be reproduced and adapted to Second Life and probably also to other virtual communities; but the likelihood is even stronger as a result of the lack of proper regulation and oversight and owing to the high degree of anonymity that exists in these online worlds.

<sup>23</sup> Elliot (2008).

## 4 THE RELEVANCE OF VIRTUAL CURRENCY SCHEMES FOR CENTRAL BANKS

As shown in the previous chapters, virtual currency schemes have become relevant in several areas that traditionally fall within the scope of the financial system and especially so in relation to the tasks of central banks. Consequently, it seems appropriate to consider the extent to which they might affect a central bank's tasks in the areas of payment systems, regulation, financial stability, monetary policy and price stability.<sup>1</sup>

A closed virtual currency scheme (Type 1) which focuses on a specific virtual community (e.g. an online game) is not relevant from a central bank's perspective. This kind of scheme is a simple adaptation of traditional games to suit the online world and, therefore, can be quickly disregarded in this context. For schemes that are more open and/or linked to the real economy (Types 2 and 3) the situation is different, especially if bilateral exchange rates are involved, creating the opportunity for speculative behaviour, and/or if the virtual currency can be used to buy real goods and services, thereby competing with traditional currencies.

This chapter focuses on the potential impact that virtual currency schemes may have in relation to the following central bank tasks: a) price stability, b) financial stability, and c) payment system stability. A final section is also included that examines the potential for central banks to face reputational risks arising from security incidents involving virtual currency schemes.

It is important to stress that this chapter is not intended to be a fully-fledged analysis; rather it is a first attempt at providing a basis for discussion on this issue. Largely, this is a result of the uncertainty surrounding virtual currency schemes and the lack of reliable information and data. From the analysis of the existing information it is already possible to draw an initial conclusion: it is very complicated to obtain a clear overview of the situation regarding virtual currency schemes at this stage. Almost all of the information that can be found is on the internet, written in blogs or on web pages where personal bias cannot be excluded (see, for instance, the references listed in the Annex). With the exception of a few articles from respectable media sources or economics journals, it is almost impossible to find any comprehensive papers on this issue, since no international organisations have published statements. A similar problem exists with regard to the quantitative information and statistics that would be needed in order to assess the speed at which these virtual currency schemes are growing and the point at which they could become a real threat. The quantitative information that is available is not extensive and is usually provided by the respective scheme owner.

### 4.1 RISKS TO PRICE STABILITY

The ways in which innovations to payment systems might have an impact on price stability and monetary policy has been extensively discussed in the context of electronic money.<sup>2</sup> The most important challenges identified were (i) the preservation of the unit of account, (ii) the risks to the effectiveness of monetary policy and its implementation, and (iii) the possible distortions to the information content of monetary aggregates. Conceptually, virtual currency schemes could have an impact on price stability and monetary policy if they affect the demand for the central bank's

<sup>1</sup> The issuance of new forms of digital money and their impact on central banks' roles has been intensively debated since the early years of the European Monetary Institute (see, for instance, EMI, 1994). More recently, these issues have also been discussed in the context of the Electronic Money Directive.

<sup>2</sup> See, for instance, ECB (1998).

liabilities and interfere in the control of the supply of money through open market operations. Overall, these schemes could affect price stability if:

- a) they substantially modify the quantity of money;
- b) they have an impact on the velocity of money, the use of cash, and/or influence the measurement of monetary aggregates;
- c) there is an interaction between the virtual currencies and the real economy.

Regarding the first aspect – the impact on the quantity of money – it is difficult to assess, owing to the lack of reliable information, the extent to which virtual currency schemes are creating new money. However, in principle, most of these schemes work on a prepaid basis, i.e. the issuance of virtual currency takes place when real money is exchanged and, in the same vein, virtual currency is absorbed (withdrawn from circulation) when exchanged back to real money. Consequently, the net effect should, in theory, be limited.

The supply of money in the most prominent schemes seems to be quite stable and does not reach significant figures, at least not yet (see sections 3.1.3 and 3.2.3). However, two comments should be made:

- It is assumed that the money supply will remain more or less stable over time; however, there is actually no way of ensuring this.
- The impact of the money supply on a real currency has to be assessed in terms of the latter, i.e. there could be a certain impact as a result of the exchange rate, even if the money supply remains stable. In the case of Linden Dollars, this is not a serious issue, as – for the time being – Linden Lab uses several instruments to keep the exchange rate in Second Life relatively stable. However, in the event of high exchange rate volatility this picture could change quite substantially. Bitcoin is a clear example of this.<sup>3</sup>

The second aspect to consider is how virtual currencies could have an impact on the velocity of money, the use of cash, and/or influence the measurement of monetary aggregates. The velocity of money is a measure of how often a unit of currency is spent to purchase goods and services produced in the economy.<sup>4</sup> A textbook assumption is to consider that the velocity of money is constant in the short term, as it relies on the institutional and technological features of the economy and these are assumed not to change in the short run. However, it is not clear at this stage how the technological innovations presented by virtual currency schemes might affect the velocity of money. As this is a network industry, it will largely depend on the number of active virtual currency scheme users (consumers willing to pay with these virtual currencies and merchants willing to accept their payments).

<sup>3</sup> The number of Bitcoins in circulation as of 26 July 2011 was 6,905,450. Taking the market exchange rate for Bitcoins on 1 April 2011 (USD 0.785), this means that the money supply was around USD 5.4 million. If, however, the exchange rate of 8 June 2011 (USD 30.99) is used, then the total amount of Bitcoins in circulation would be around USD 214 million. On 3 May 2012, the exchange rate was around USD 5.099. With around eight million Bitcoins in circulation, the value of this currency was around USD 41 million.

<sup>4</sup> In the classical equation of exchange, the velocity of money ( $V$ ) is represented in the following terms:  $V = P \times Y / M$ , where  $P \times Y$  is the nominal GDP and  $M$  is the money supply.

In an extreme case, virtual currencies could have a substitution effect on central bank money if they become widely accepted. The increase in the use of virtual money might lead to a decrease in the use of “real” money, thereby also reducing the cash needed to conduct the transactions generated by nominal income. In this regard, a widespread substitution of central bank money by privately-issued virtual currency could significantly reduce the size of central banks’ balance sheets, and thus also their ability to influence the short-term interest rates. Central banks would need to look at their existing tools to deal with this risk (for instance, trying to impose minimum reserve requirements on virtual currency schemes).

The substitution effect would also make it more difficult to measure monetary aggregates and, as a consequence, would affect the relationship between the monetary aggregates as measured and inflation, which is used to gauge risks to price stability in the medium to longer term.

Lastly, on this second aspect, when virtual money is created outside the realm of the central bank and virtual credit can be extended, this may have implications for the way interest rate decisions by the central bank are transmitted through the economy and the central bank’s control over money and credit developments could become less effective.

The third aspect to examine is the interaction between the virtual currencies and the real economy. Second Life and Bitcoin users are spread around the globe and therefore their impact should also be interpreted globally. However, if a virtual currency scheme was to be focused on one specific country, it could indeed have an impact on the money supply of this country. This is what happened in China with the Chinese virtual currency scheme Q-coin, introduced by the company Tencent, one of the leading telecom operators in the country. QQ is an instant messaging service provided by this company that also allows virtual payments to be made with Q-coins. This currency can be purchased by credit card or by using the remaining balance on a prepaid telephone card. The exchange rate is fixed against the renminbi. Originally, this currency was implemented only for the purchase of goods and services provided by Tencent. However, users started using it for person to person (P2P) payments and some merchants also started accepting Q-coins as a means of payment. In addition, several online games rewarded users with points that could be exchanged against Q-coins and ultimately also against yuan in the black market. The virtual currency had evolved into an illegal money scheme. Chinese authorities saw the amount of Q-coins traded reach several billion yuan in one year, after rising around 20% annually. In June 2009, the Chinese authorities decided to ban this currency for trading in real goods in order to “limit its possible impact on the real financial system”.<sup>5</sup> They also provided a definition of a virtual currency and stressed that they would only allowed it to be used for purchasing the virtual goods and services provided by its issuer and not for real goods and services.

Box 3 shows a few examples of innovations based on Bitcoin. Apart from fraud concerns, two possible effects can be expected if these kinds of innovation proliferate and succeed. On the one hand, they could have an impact on the velocity of money existing in the economy. On the other, the interaction between virtual currencies and the real economy could also increase if widely used. In both cases, there would be a need to monitor these innovations.

<sup>5</sup> Ministry of Commerce, People’s Republic of China: (<http://english.mofcom.gov.cn/article/newsrelease/commonnews/200906/20090606364208.html>).



## INNOVATION AND VIRTUAL CURRENCY SCHEMES – BITCOIN EXAMPLES

Innovations in the retail payment markets are progressing very quickly, triggered by technological developments. Virtual currency schemes are no exception. In the context of Bitcoin, for instance, a new payment instrument is being developed called Bitbills (<http://bitbills.com/index.html>). Bitbills are prepaid cards for storing Bitcoins or for conducting point of sale payment transactions in regular shops. There are several denominations (1, 5, 10 and 20 Bitcoins). They can be viewed as a substitute for cash based on the Bitcoin system without requiring an internet connection. Each Bitbill contains a special security hologram where a QR code is stored. This encodes a cryptographic single-use private key linked to the money stored on the card. Users can either exchange the cards at face value (for instance at a retailer) or redeem the funds and spend them in the Bitcoin network by cutting the card and extracting the private key. According to the creator of this innovation, since their launch on 9 May 2011, the demand for Bitbills has been substantial.

This is not, however, the only payment innovation linked to Bitcoin. Another example links Bitcoins to payment cards from regular, international card schemes. For instance, Bitcoin 2 Credit Card (<https://www.bitcoin2cc.com/>) was a virtual credit card offered in exchange for Bitcoins that could be used for purchases where a physical plastic card was not required, such as for online and telephone purchases. Buyers of these cards received the necessary details to perform a transaction (card number, expiry date and other relevant details). According to the provider, these cards worked with PayPal and the banks used for handling the transactions were located in Canada and the United States. Another way to link Bitcoins to a regular payment card is to increase the balance of an existing payment card by selling Bitcoins. This service, called Withdraw2Card, is currently being offered by AurumXchange. Customers sell their Bitcoins on one of the major exchange platforms and receive a redeemable coupon which is used to transfer the payment to the payment card (card number and expiry date are required). This part of the service is based on an extension of the existing card scheme option to credit a card in the event of a refund.

On 21 October 2011, another innovation related to Bitcoin was made public: the development of a Bitcoin point of sale system ([https://en.bitcoin.it/wiki/Casascius\\_Bitcoin\\_POS\\_system](https://en.bitcoin.it/wiki/Casascius_Bitcoin_POS_system)). Its main function is to enable retailers to accept Bitcoins at the point of sale.

The economics literature has not yet addressed the effect of virtual currencies on real money and monetary policy. One exception to this is a paper written by Peng and Sun (2009). These authors argue that virtual currency schemes act as a medium of exchange in the real goods trade and, therefore, that real GDP is affected and should be taken into account when assessing the effects of virtual currency schemes on the real money supply. According to the authors, the impact of virtual currencies on the real money supply depends on two aspects:

- a) the substitution effect of the virtual economy on the real economy. Based on a survey, they infer that in China the total income of the real economy tends to decrease because of virtual economic activities (e.g. people spending a lot of time in virtual games spend less time working in the real world), thereby also affecting the volume of the monetary base.

- b) the crowding-out effect of virtual currencies on real cash. As the volume of virtual currencies increases, people hold less cash in real life. This causes a decrease in the cash/deposit ratio and, consequently, an increase in the money multiplier.<sup>6</sup>

The authors argue that as the real money supply is affected by virtual currency schemes, central banks should incorporate virtual currencies into monetary statistics in order to monitor their volume.

The challenge that virtual currency schemes might eventually pose for the conduct of monetary policy, in the event that these schemes manage to substantially diminish the use of central bank sponsored currencies (replacing its roles in providing liquidity and a store of value), has also been highlighted in a recent BIS document.<sup>7</sup>

Finally, it is important to safeguard a currency's role as a unit of account, as society reaps benefits from a well-defined and stable monetary unit for its economic transactions, irrespective of the issuer or the format in which money is issued. Virtual currency schemes could lead to the emergence of multiple units of account in the real economy. Virtual currency scheme owners could then be tempted to issue excessive amounts in order to profit from the placement of these funds. A change in views about the creditworthiness of these issuers (and the associated virtual exchange rate variability) would threaten to undermine the role of money in providing a single unit of account as a common financial denominator for the whole economy.

## CONCLUSIONS ON PRICE STABILITY

While subject to a lack of reliable information, we can conclude that virtual currency schemes do not pose a risk for price stability at this stage, provided that the issuance of money continues to be as stable as it seems to be at present. In the short to medium term, no significant impact can be expected on the velocity of money. However, it is probably worth monitoring the interaction between virtual currencies and the real world.

## 4.2 RISKS TO FINANCIAL STABILITY

The ECB defines financial stability as the condition in which the financial system – comprising financial intermediaries, markets and market infrastructures – is capable of withstanding shocks, thereby mitigating the likelihood of disruptions in the financial intermediation process which are severe enough to significantly impair the allocation of savings to profitable investment opportunities. The safeguarding of financial stability requires an identification of the main sources of risk and vulnerability, such as inefficiencies in the allocation of financial resources from savers to investors and the mispricing or mismanagement of financial risks.

In the context of virtual currency schemes, as they work outside the banking system, the main (and also, unlikely) source of potential financial instability would be the link between virtual

<sup>6</sup> Pong and Sun (2009) also examine what they call the "behaviour effect of issuers". This effect has the opposite impact on the multiplier, compared with the crowding-out effect. However, the authors conclude that the crowding-out effect is greater and, therefore, that the money multiplier increases.

<sup>7</sup> See BIS (2012).

currencies and the real economy, i.e. the exchange rates and the exchange markets.<sup>8</sup> Obviously, Type 1 and 2 schemes are not affected by this, meaning special attention should be paid to Type 3 schemes, where two exchange rates (buy and sell) are involved. The value of Type 3 virtual currencies is determined by the demand and supply of money in the foreign exchange market. The big difference from real money is that there is no country or currency area behind the virtual currency scheme and therefore the exchange rate is not affected as seriously by the strength of the (virtual) economy, its trade imbalances or its productivity. The price of the virtual currency and its volatility depend on five main factors:

- 1) The supply of money and other issuer actions, such as the decision to intervene in the market in order to maintain a fixed or semi-fixed exchange rate. Typically, the exchange rate is set in a bid/ask spread, although, for instance, Linden Lab also implements its own type of “monetary policy” measures to stabilise it. Linden Lab can print and sell Linden Dollars against real money, thereby acting as a virtual issuing bank and benefiting from a form of income from seigniorage.
- 2) The dimension of the network. Virtual currency schemes exhibit network externalities, i.e. the value of the currency will also depend on how many users and merchants use and accept it. Therefore, it can be expected that, as the size of the network (consumers and merchants) grows, the currency’s value will increase accordingly. Moreover, virtual currency schemes with low trading volumes are expected to suffer more volatility in their exchange rates, as the exchange transaction of only a few users could alter the value of the currency.
- 3) Institutional conditions governing the virtual community. The virtual communities that have clear and transparent policies and state-of-the-art security measures are more likely to generate confidence and have stronger currencies.
- 4) The virtual currency issuer’s reputation for meeting its commitments. Since virtual currency payments are not settled in central bank money or commercial bank money, nor is there any lender of last resort, a crucial element affecting the virtual exchange rate is the trust gained by the virtual currency issuer.
- 5) Speculations regarding the future value of the currency and history of cyberattacks suffered in the virtual community.

Type 3 virtual currency schemes may tend to be inherently unstable for several reasons, such as the scheme’s lack of maturity, a lack of confidence on the part of users of an incipient system, low volumes traded, lack of legal certainty, speculation and cyberattacks, etc.

One example of this instability is Bitcoin. Its value in terms of US dollars has increased dramatically. On 1 April 2011, one Bitcoins was worth USD 0.785. The closing price on 8 June 2011 was USD 30.99, but it went down to USD 0.10 on 20 June 2011, following a security incident (see section 3.1.4). On 13 December 2011, the closing price was USD 3.24 (see Chart 11). Considering the short time frame during which the currency appreciated, and the fact that it appears no significant changes had taken place as far as the factors listed above were concerned, the exchange rate evolution should probably be attributed entirely to speculation. Therefore, this evolution resembles a bubble, especially if it is considered that between the system being established in 2009

<sup>8</sup> A second source of financial instability could arise if these schemes jeopardise the smooth functioning of payment systems. This issue is discussed in the next section.

Chart 10 Bitcoin exchange rate in Mt.Gox



Source: Bitcoin charts (<http://bitcoincharts.com/charts/>)

and April 2011, the exchange rate was quite stable at less than USD 1. Similar speculative situations can also be expected in the future.

For the time being, the low volume traded in these virtual currency schemes and the fact that there is no substantial connection with the real economy (relatively few users who are spread across the world) means that the stability of the financial system cannot be negatively affected by any of these schemes. However, the situation could change in the future if these schemes become an alternative to traditional currencies, thereby introducing instability in the system as a result of their substantial volatility, even with the potential to distort the relative prices of goods and services. Here again, the true impact of virtual currency schemes will largely depend on the number of active users, as well as the

number of merchants willing to accept the virtual currency for real transactions. In addition, the fact that these currencies have only exchange value and no use value may also pose a problem. Users of the system actually exchange real currency for computing bits. There is normally no asset with intrinsic value underlying the virtual currency, nor is there any central bank backing the currency and acting as lender of last resort. At the same time, these markets are illiquid and rely on others wanting to join the scheme. As a consequence, users face a substantial liquidity risk and could end up owning bits that no one wants to buy.

It seems that, at the moment, these schemes do not allow borrowing or lending. But this may change in the future. There is even speculation on how Bitcoin could evolve.<sup>9</sup> Banks could, for instance, act as a depository for the wallet files that contain users' Bitcoins; these users would then rely on the banks' technical and security knowledge. The banks could then pay interest to those who hold the virtual currency with them. Alternatively the Bitcoin system could even start working as a fractional-reserve system, extending credit over and above its actual reserves; however, the scheme's supporters are clearly opposed to this. These developments, if they came to pass, could indeed have a certain impact on financial stability in the future.

#### CONCLUSIONS ON FINANCIAL STABILITY

Virtual currency schemes may be inherently unstable. Nevertheless, for the time being they do not jeopardise financial stability, given their limited connection to the real economy, the low volumes traded and the lack of wide user acceptance. However, developments should be carefully monitored, as the situation could change substantially in the future.

<sup>9</sup> See, for instance, <http://www.webisteme.com/blog/?p=192>

#### 4.3 RISKS TO PAYMENT SYSTEM STABILITY

As stressed earlier, in general, a payment made within a virtual currency scheme is handled “in-house” and can therefore be classified as a specific type of “on-us” transaction. Payments are usually low value payments and are settled on a gross and real-time basis. The settlement institution (i.e. the issuer) is a non-regulated institution. A significant concentration of payment activities and associated exposures within this single institution could ensue if values processed in these virtual currency schemes were to grow significantly in the future.

Virtual currency payment arrangements have evolved into “real” payment systems within the specific virtual community. As a consequence, they face the typical risks linked to payment systems:

- Credit risk. Users are exposed to credit risk in relation to any funds held on the virtual accounts, as it cannot be guaranteed that the settlement institution is able to fully meet its financial obligations when these are due or at any time in the future.
- Liquidity risk. Users are also exposed to liquidity risks if the settlement institution fails to meet any commitments it has made to provide liquidity to the participants as and when expected. In this regard, virtual currency schemes are very illiquid as a result of the low volumes traded. In the event of security incidents, the conversion of users’ funds into real money would probably not occur quickly without a significant material loss in value.
- Operational risk. Both payer and payee need to have accounts with the settlement institution and are therefore reliant on the soundness of its operational and business continuity.
- Legal risk. There are many legal uncertainties regarding virtual currency schemes. In virtual currency schemes, the lack of a proper legal framework substantially exacerbates the other risks.

The nature, size and duration of these exposures depend very much on factors such as the design of the system or its degree of illiquidity. However, as a rule of thumb, it can be assumed that these risks are very difficult to avoid or to control in a virtual currency scheme.

In these schemes, the settlement asset is the virtual currency, and therefore the finality and irrevocability of payments cannot be ensured. Only central bank money can do so, because central banks present no default risk and act as lender of last resort to the member of the system in order to stop any possible chain reaction resulting from payment incidents or unforeseeable liquidity shortages.<sup>10</sup> Virtual currencies cannot therefore be considered to be safe money, since the likelihood of the asset retaining its value for the holder, and hence its acceptability to others as a means of payment cannot be ensured. It simply relies on the creditworthiness of the issuer of the settlement asset. The level of safety is clearly below that of commercial bank money, as commercial banks are subject to prudential requirements and are supervised in order to reduce the likelihood of default, thereby improving the safety of claims on these institutions.

This is a fundamental risk relating to virtual currency schemes, which do not involve any kind of supervision of the settlement institution or oversight of the system, and therefore no one is accountable for their acts. Nor is there any kind of investor/depositor protection scheme in place. As a consequence, users bear all of these risks themselves.

<sup>10</sup> OECD (2002), p. 66.

Central banks' oversight activities aim to achieve safe and efficient payment and settlement systems, and contribute to financial stability and the proper functioning of the economy as a whole. The "Core Principles" are usually accepted as a basic reference for implementing central banks' oversight activities; even for non-systemically important payment systems (see Box 4).<sup>11</sup>

<sup>11</sup> As acknowledged by the ECB (2003), the systems having a lesser impact on the financial infrastructure and the real economy (including virtual currency schemes) do not necessarily have to comply with the relevant oversight standards: "Such systems have to comply with the relevant oversight standards, as and if defined for them". Since there are no oversight standards for virtual currency schemes, this report uses as its starting point the Principles for Systemically Important Payment Systems.

#### Box 4

##### CORE PRINCIPLES FOR SYSTEMICALLY IMPORTANT PAYMENT SYSTEMS (BIS, 2001)

- I. The system should have a well-founded legal basis under all relevant jurisdictions.
- II. The system's rules and procedures should enable participants to have a clear understanding of the system's impact on each of the financial risks they incur through participation in it.
- III. The system should have clearly defined procedures for the management of credit risks and liquidity risks, which specify the respective responsibilities of the system operator and the participants and which provide appropriate incentives to manage and contain those risks.
- IV.<sup>1</sup> The system should provide prompt final settlement on the day of value, preferably during the day and at a minimum at the end of the day.
- V.<sup>1</sup> A system in which multilateral netting takes place should, at a minimum, be capable of ensuring the timely completion of daily settlements in the event of an inability to settle by the participant with the largest single settlement obligation.
- VI. Assets used for settlement should preferably be a claim on the central bank; where other assets are used, they should carry little or no credit risk.
- VII. The system should ensure a high degree of security and operational reliability and should have contingency arrangements for timely completion of daily processing.
- VIII. The system should provide a means of making payments which is practical for its users and efficient for the economy.
- IX. The system should have objective and publicly disclosed criteria for participation, which permit fair and open access.
- X. The system's governance arrangements should be effective, accountable and transparent.

<sup>1</sup> Systems should seek to exceed the minima included in these two principles.

It is quite clear that virtual currency schemes do not comply with most of the Core Principles, especially in relation to their legal basis (CP I); the rules and procedures in place in order to enable participants to have a clear understanding of the risks they are taking (CP II); the procedures for the management of credit and liquidity risks (CP III); the asset used for the settlement, i.e. the virtual currency (CP VI); the degree of security and operational reliability (CP VII); and the governance arrangements (CP X).

That being said, the Core Principles also provide three criteria in order to assess the criticality of a payment system: i) it is the only payment system in a country, or the principal system in terms of the aggregate value of payments; ii) it handles mainly payments of high individual value; and iii) it is used for the settlement of financial market transactions or for the settlement of the other payment systems. From a global perspective, none of these criteria are met by virtual currency schemes, and therefore they cannot be considered systemically important payment systems. Consequently, it is absolutely clear that they would not be capable of triggering disruptions or transmitting shocks across the financial system. However, they could cause a significant environment of instability within the virtual community in which they operate. In this regard, virtual currency schemes can indeed be critical, but only for their users within the virtual community. This issue might be of interest for other authorities (e.g. in the context of market conduct regulation and supervision).

#### CONCLUSIONS ON PAYMENT SYSTEM STABILITY

Virtual currency schemes seem to work like retail payment systems within the virtual community they operate. However, in contrast to traditional payment systems, they are not regulated or closely overseen by any public authority. Participation in these schemes exposes their users to credit, liquidity, operational and legal risks within the virtual communities; no systemic risk outside these communities can be expected to materialise in the current situation.

#### 4.4 LACK OF REGULATION

The instability of virtual currency schemes can be explained by one of the most critical aspects mentioned earlier, i.e. the lack of a proper legal basis for virtual currency schemes.<sup>12</sup> The legal basis of a payment system consists of framework legislation, as well as specific laws, regulations, and agreements governing both payments and the operation of the system.<sup>13</sup> Virtual currency schemes visibly lack a proper legal framework, as well as a clear definition of rights and obligations for the different parties. Key payment system concepts such as the finality of the settlement do not seem to be clearly specified.

Furthermore, the global scope that most of these virtual communities enjoy not only hinders the identification of the jurisdiction under which the system's rules and procedures should eventually be interpreted, it also means the location of the participants and the scheme owner are hard to establish. As a consequence, governments and central banks would face serious difficulties if they tried to control or ban any virtual currency scheme, and it is not even clear to what extent they are

<sup>12</sup> The non-existence of a clear legal basis for virtual currency schemes is an illustration of the overall existing lack of understanding about virtual economies and their impact on the real economy. For instance, it is not clear to what extent virtual production should be considered when estimating the production of wealth per capita. The current national income and product accounts do not assign any value to online assets (see Castronova, 2001). Moreover, two related aspects that could be considered are how to tax individual income earned through virtual currency transactions and how to define and protect virtual properties (see Chu, 2008 and The Economist, 2011b).

<sup>13</sup> BIS (2001), p. 16.

permitted to obtain information from them.<sup>14</sup> In the particular case of Bitcoin, which is a decentralised peer-to-peer virtual currency scheme, there is not even a central point of access, i.e. there is no server that could be shut down if the authorities deemed it necessary.

- 14 One possible way to overcome this situation and obtain some quantitative information on the magnitude of the funds moved through these virtual currency schemes could be to focus on the link between the virtual economy and the real economy, i.e. the transfer of money from the banking environment to the virtual environment. Virtual accounts need to be funded either via credit transfer, payment card or PayPal and therefore a possibility would be to request this information from credit institutions, card schemes and PayPal.

#### Box 5

#### BITCOIN AND THE EU LEGAL FRAMEWORK

Bitcoin's legal framework is very unclear. In the EU, there are some who suggest that Bitcoin could fall under the Electronic Money Directive (2009/110/EC). This Directive uses three criteria to define electronic money: (i) it should be stored electronically; (ii) issued on receipt of funds of an amount not less in value than the monetary value issued; and (iii) accepted as a means of payment by undertakings other than the issuer.

Can Bitcoin be considered an electronic money institution? Bitcoin probably complies with the first and the third criteria, but not with the second. Moreover, it is important to consider the conversion into another currency, which was clearly not envisaged in the Directive. In fact, Art. 11 explicitly says that "Member States shall ensure that, upon request by the electronic money holder, electronic money issuers redeem, at any moment and at par value, the monetary value of the electronic money held". This cannot be ensured in a virtual currency scheme like Bitcoin (or in any other Type 3 scheme). A last key aspect that should be taken into account is the "mining" activity, which leads to money creation without the receipt of funds.<sup>1</sup> It is difficult to assess how this could be interpreted within the scope of the Directive.

Another European law that might have some relevance to virtual currency schemes like Bitcoin is the Payment Services Directive (2007/64/EC). This Directive lays down rules on the execution of payment transactions where the funds are electronic money, yet it does not regulate the issuance of electronic money, nor does it amend the prudential regulation of electronic money institutions as provided for in the Electronic Money Directive. Therefore, the new category of payment service provider it introduces – payment institutions – should not be allowed to issue electronic money. As a consequence, Bitcoin clearly falls outside the scope of the Payment Services Directive.

In the meantime, some initial attempts to define the legal status of Bitcoin are already happening in Europe. The French law courts are looking into the issue after local banks shut down the currency exchange facility for accounts handling the currency, on the presumption that Bitcoin should conform to electronic money regulations.<sup>2</sup>

Finally, the issue of Bitcoin's legal framework has been raised in the European Commission's Payments Committee.

<sup>1</sup> See Jacobs (2011).

<sup>2</sup> Finextra (<http://www.finextra.com/news/fullstory.aspx?newsitemid=22921>).



Usually regulation lags behind technological developments by some years. This is also the case in virtual currency schemes (at least in their current form), which were already being established as early as the late 1990s. It was only in 2006 that a number of US government agencies started considering these schemes. The following year, some of these companies were charged with operating unlicensed money transmitting businesses. Since then, a number of other legal actions have been taken and many of these schemes operating in the United States have been closed.<sup>15</sup> Subsequently, China has also taken a stance against the use of virtual currency schemes for the purchase of real goods and services. Recently, in the context of a survey on innovation in payment systems carried out by the Reserve Bank of Australia (RBA), Microsoft asked the Australian central bank to consider adjustments to the domestic payments market to help consumers conduct transactions in virtual currencies.<sup>16</sup>

Authorities need to consider whether they intend to formalise or acknowledge and regulate these schemes. In this regard, a likely suggestion could sooner or later involve virtual currency scheme owners registering as financial institutions with their local regulating authorities. This is a similar trajectory to the one PayPal has undergone, as it was granted a banking licence in Luxembourg in 2007 after its service became popular.<sup>17</sup> This is not an easy step, but it looks like the only possible way to strike a proper balance between money and payment innovations on the one hand, and consumer protection and financial stability, on the other.

Registering these companies as financial institutions would at least reduce the incentive for terrorists, criminals and money launderers to make use of these virtual currency schemes for illegal purposes. As explained, Type 3 schemes allow users to convert virtual currency into real currency and vice versa, using different channels and accounts. Villasenor et al. (2011) provide a good overview of how these virtual currency schemes might be used by criminals and money launderers. A number of elements from this paper are worth examining. On the one hand, technology-facilitated transactions can be designed to be invisible or to be visible but anonymous. On the other, these transactions are very difficult to trace back. There are basically two difficulties:

- Technological hurdles: a movement of USD 900,000 conducted in 100 different electronic transfers of USD 9,000 might be easy to spot, but the power of a large, widely-dispersed online network that enables this money to be moved in 100,000 transactions with randomised amounts, generally in the USD 6 to USD 15 range, might not be so easy to pinpoint.
- Legal hurdles: a variety of entities and intermediaries, each located in a different country, could be involved in the transaction, without any of them really having all the information on the transaction.

A final aspect worthy of further investigation is the extent to which transactions carried out in these virtual communities are or should be covered by consumer protection measures. Transactions within virtual communities could be regarded as a special kind of electronic commerce, as they look quite similar to other online transactions. However, neither Directive 2011/83, on consumer rights, nor

<sup>15</sup> DGC Magazine (2010), p. 28.

<sup>16</sup> See the feedback provided by Microsoft to the Reserve Bank of Australia (<http://www.rba.gov.au/payments-system/reforms/strategic-review-innovation/submissions/201106-strategic-review-innovation/microsoft.doc>).

<sup>17</sup> Korolov (2010). Prior to this they were a regulated electronic money institution in the UK.

Directive 2000/31, on electronic commerce, seems to refer to the transactions performed in a virtual community or with Bitcoin.<sup>18</sup>

#### CONCLUSIONS ON THE LACK OF REGULATION

Virtual currency schemes, in contrast to traditional payment systems, are not regulated. The legal uncertainty surrounding these schemes might constitute a challenge for public authorities, as these schemes can be used by criminals, fraudsters and money launderers to perform their illegal activities.

#### 4.5 REPUTATIONAL RISK

The reputation of central banks is a key element determining the effectiveness of their various policies, especially monetary policy. A reputation is hard to earn, but very easy to lose.

Since central banks are the institutions to which people look in order to establish how much trust to place in money, they are very much concerned about their reputation. For the ECB, reputational risk is defined as the risk of deterioration of the reputation, credibility or public image of the ECB towards different external stakeholders (e.g. general public, financial sector, etc.). It is included as it has a specific impact on operational risk, which is defined as the risk of negative financial, business or reputational impacts resulting from inadequate or failed internal governance and business processes, people, systems or from external events. A reputational impact may occur even when business objectives are being met, i.e. even if central banks are not responsible. Virtual currency schemes are able to have a reputational impact. They are about money and about payments and therefore, for the general public, they clearly fall under the responsibility of central banks, even though this might not be the case from a statutory and legal point of view. Therefore, the possibility of a reputational impact in the event of a security incident should be taken into account. Although the impact of a failure of a virtual currency scheme would be limited, assuming they do not significantly grow in size, the likelihood is considerable as a result of the high volatility and instability of virtual currency schemes and the broad media coverage they receive from time to time (for instance, Bitcoin).

#### CONCLUSIONS ON REPUTATIONAL RISK

If the use of virtual currency schemes grows considerably, incidents which attract press coverage could have negative impacts on the reputations of central banks, if the public perceives the incidents as being caused, in part, by central banks not doing their jobs properly. As a consequence, this risk should be considered when assessing the overall risk situation of central banks.

<sup>18</sup> Directive 2011/83/EU, on consumer rights, alludes to "digital content" and defines it as data which are produced and supplied in digital form. From a purely conceptual point of view, there are few differences between buying an image to use as a screen saver on a mobile phone and buying clothes for an avatar in Second Life.





## 5 CONCLUSION

Although in practical terms virtual currency schemes are only an evolution, from a conceptual point of view they do present substantial changes when compared to real currencies and payment systems. Firstly, conventional actors like financial institutions, clearing houses and central banks are absent from these schemes. Also, they proliferate more easily, against the background of the huge growth in access to and use of the internet and as a result of the technical innovations behind these schemes. Moreover, they are not often bound to a specific country or currency area, which complicates law making, regulating and law enforcing.

From the preliminary analysis in this report it can be concluded that, in the current situation, virtual currency schemes:

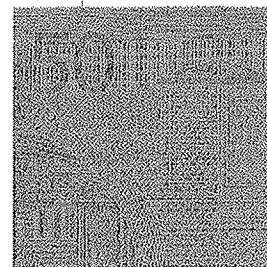
- do not pose a risk to price stability, provided that money creation continues to stay at a low level;
- tend to be inherently unstable, but cannot jeopardise financial stability owing to their limited connection with the real economy, their low volume traded and a lack of wide user acceptance;
- are currently not regulated and are not closely supervised or overseen by any public authority, even though participation in these schemes exposes users to credit, liquidity, operational and legal risks;
- could represent a challenge for public authorities, given the legal uncertainty surrounding these schemes, as they can be used by criminals, fraudsters and money launderers to perform their illegal activities;
- could have a negative impact on the reputation of central banks, assuming the use of such systems grows considerably and in the event that an incident attracts press coverage, since the public may perceive the incident as being caused, in part, by a central bank not doing its job properly;
- do indeed fall within central banks' responsibility as a result of characteristics shared with payment systems, which give rise to the need for at least an examination of developments and the provision of an initial assessment.

Although these schemes can have positive aspects in terms of financial innovation and the provision of additional payment alternatives for consumers, it is clear that they also entail risks. Owing to the small size of virtual currency schemes, these risks do not affect anyone other than the users of the schemes. However, it can reasonably be expected that the growth of virtual currencies will most likely continue, triggered by several factors: a) the growing access to and use of the internet and the growing number of virtual community users, b) the increase of electronic commerce and in particular digital goods, which is the ideal platform for virtual currency schemes; c) the higher degree of anonymity compared to other electronic payment instruments that can be achieved by paying with virtual currencies; d) the lower transaction costs, compared with traditional payment systems; and e) the more direct and faster clearing and settlement of transactions, which is needed and desired in virtual communities.

Given that the current assessment of risks is highly dependent on relatively small-sized virtual currency schemes, the assumption that virtual currency schemes will continue to grow means that a periodical examination of the developments is needed in order to reassess the risks.



## ANNEX: REFERENCES AND FURTHER INFORMATION ON VIRTUAL CURRENCY SCHEMES



Further information on the virtual currency schemes mentioned in this report can be found at the following websites:

- WoW Gold: <http://www.wowgoldeuro.com/>
- Facebook credits: <http://www.facebook.com/credits/>
- Linden Dollars: [http://wiki.secondlife.com/wiki/Linden\\_Dollar](http://wiki.secondlife.com/wiki/Linden_Dollar) / [http://wiki.secondlife.com/wiki/Getting\\_Linden\\_Dollars\\_FAQ](http://wiki.secondlife.com/wiki/Getting_Linden_Dollars_FAQ)
- Bitcoin: <http://www.bitcoin.org/> and <https://en.bitcoin.it/wiki/FAQ>
- E-gold: <http://www.e-gold.com/> and <http://www.e-gold.com/unsecure/contact.html>
- Tencent\_QQ: [http://en.wikipedia.org/wiki/Tencent\\_QQ](http://en.wikipedia.org/wiki/Tencent_QQ)
- Nintendo Points: [http://www.nintendo.co.uk/NOE/en\\_GB/systems/nintendo\\_points\\_1489.html](http://www.nintendo.co.uk/NOE/en_GB/systems/nintendo_points_1489.html)

The Webpage “Virtual currency platforms” (<http://www.virtualcurrencyplatforms.com/virtual-currency-platforms/>) provides some examples and information on Type 1 virtual currency schemes.

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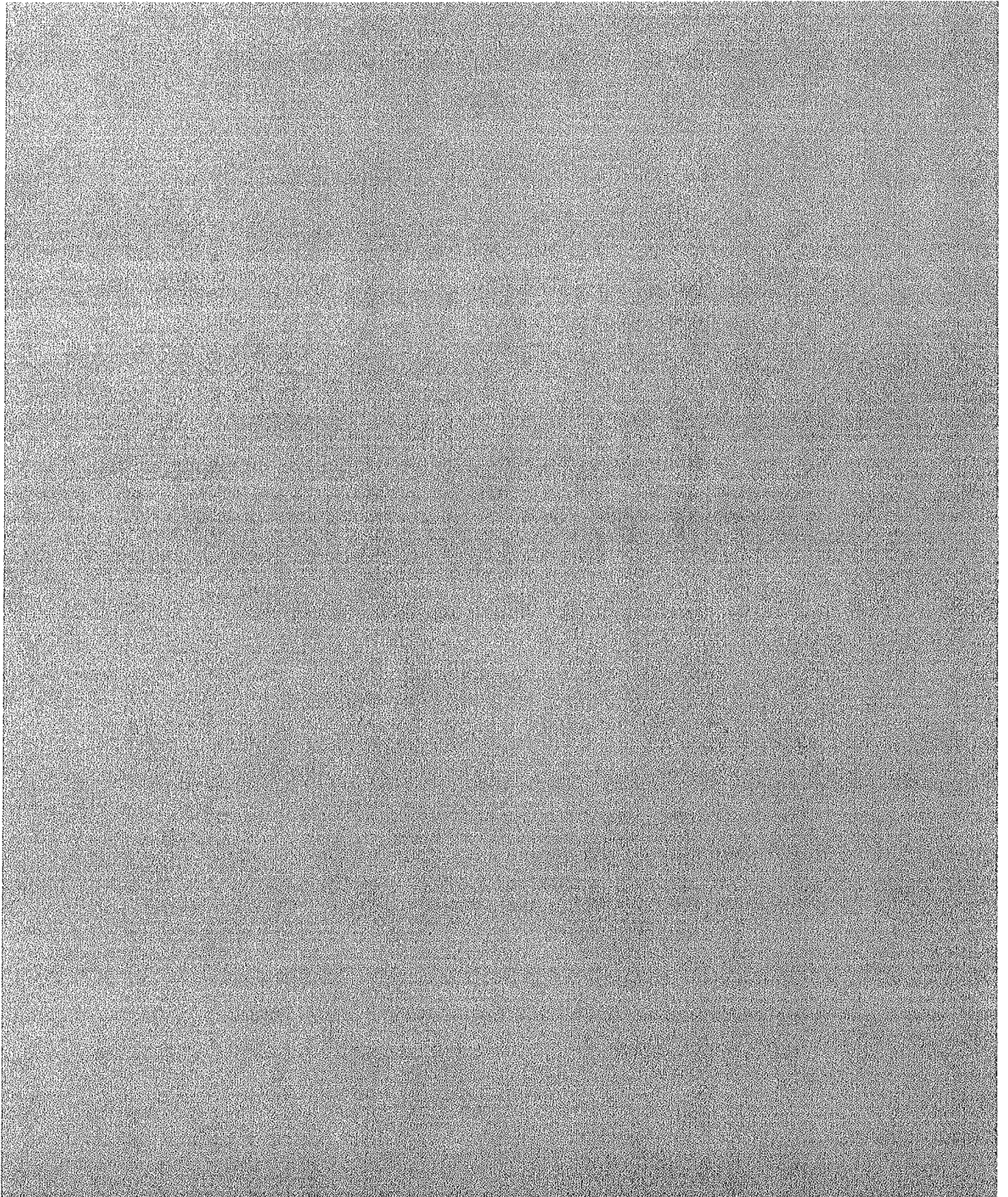
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**To:** Perwien Mark S; McGeady Johanna M  
**Cc:** Sereti Rosemary J; Fee James C; Gillen Duane M; Welsh Donna J; Fahey Douglas A; Keyso Jr. Andrew J  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Thanks Mark. I've copied Donna Welsh, Andrew Keyso, and Doug Fahey of Chief Counsel on this reply, in case they want to contact you directly. I also forwarded your prior suggestion. Thanks again for your time.

-Alice

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**From:** Perwien Mark S  
**Sent:** Thursday, November 14, 2013 5:04 PM  
**To:** Ronk Alice L; McGeady Johanna M  
**Cc:** Sereti Rosemary J; Fee James C; Gillen Duane M  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

[Redacted]

(b)(5)

Mark S. Perwien  
Senior Advisor Financial Products  
(O) (212) 298-2050  
(C) (201) 851-2422  
290 Broadway, 12th Floor  
New York, NY 10007

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**From:** Ronk Alice L  
**Sent:** Thursday, November 14, 2013 4:54 PM  
**To:** McGeady Johanna M  
**Cc:** Sereti Rosemary J; Perwien Mark S; Fee James C; Gillen Duane M; Ronk Alice L  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

Great. Thanks. I will forward Mark's change to Chief Counsel. I really appreciate his input. And the TNT article.

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**From:** McGeady Johanna M  
**Sent:** Thursday, November 14, 2013 4:43 PM  
**To:** Ronk Alice L  
**Cc:** Sereti Rosemary J; Perwien Mark S; Fee James C; Gillen Duane M  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Hi, Alice. Thank you and Duane for sharing!

We agree with FAQ. Our senior advisor for financial products, Mark Perwien, has recommended a clarification about an established change.

[Redacted]

(b)(5)

(b)(5)

Please feel free to reach out to Mark to discuss the topic.

Thanks again, Alice!

Jo

Jo McGeady-Murphy  
Acting Director of Field Operations, Financial Products  
LB&I, Financial Services  
484-636-0504

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**From:** Perwien Mark S  
**Sent:** Thursday, November 14, 2013 4:23 PM  
**To:** McGeady Johanna M; Sereti Rosemary J  
**Subject:** RE: FYI Update on status of guidance on virtual currencies....

(b)(5)

I am attaching an article from yesterday's TNT, authored by tax professionals from PWC, which basically agrees with the conclusions in the Q&A.

Mark S. Perwien  
Senior Advisor Financial Products  
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(C) (201) 851-2422  
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New York, NY 10007

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**From:** McGeady Johanna M  
**Sent:** Thursday, November 14, 2013 1:46 PM  
**To:** Sereti Rosemary J; Perwien Mark S  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

Hi! I don't have any concerns with FAQs and was going to give the go ahead. If you have any concerns, please let me know. It is pretty basic stuff and very SBSE centric.

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**From:** Ronk Alice L  
**Sent:** Thursday, November 14, 2013 1:02 PM  
**To:** McGeady Johanna M  
**Cc:** Ronk Alice L  
**Subject:** FW: FYI Update on status of guidance on virtual currencies....

**LOS ANGELES COUNTY BAR ASSOCIATION  
TAXATION SECTION**

*BITCOIN: PROPERTY, OR CURRENCY?*

This proposal was principally prepared by Paul McCullum,<sup>1</sup> a member of the Los Angeles County Bar Association Taxation Section. The author wishes to thank Graham Sherr, Assistant Dean at Loyola Law School, Steven Turanchik of Paul Hastings and Douglas Schwartz of Nossaman, LLP, for their helpful comments.<sup>2</sup>

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<sup>1</sup> The comments contained in this paper are the individual views of the author and do not represent the position of the State Bar of California, or of the Los Angeles County Bar Association.

<sup>2</sup> Although the participants on the project might have clients affected by the rules applicable to the subject matter of this paper, and have advised such clients on applicable law, no such participant has been engaged by a client to participate on this project.

## EXECUTIVE SUMMARY

In 2009, a novel and disruptive financial instrument arrived in the digital era – Bitcoin. Bitcoin is a virtual or digital currency, sometimes called a crypto-currency.

This paper discusses some of the limitations and problems with current treatment of Bitcoin for tax purposes as property and proposes that Bitcoin and virtual currencies be treated as currencies for tax purposes. Property treatment is troublesome and incongruent for a digital mode of payment. Property treatment requires cumbersome and onerous record-keeping requirements for a technology used to pay for goods and services. This requires unduly burdensome calculation of capital gains and losses for simple transactions, and applies punitive loss limitations. Additionally, property treatment allows for taxpayer gaming, including risk of price manipulation to minimize tax burdens and the potential for wash sales.

Property treatment acts as a stifling mechanism for a revolutionary digital financial technology in an era when most wealth holdings and transfers have already become digital. Bitcoin is a disruptive technology to commerce that allows instantaneous, reliable, and low-cost transfers the world over, supported by a trusted public ledger, with no middle-man or intermediary.

The proper tax treatment for Bitcoin and other digital currencies is as a foreign currency. Bitcoin is called a currency, was developed as a currency, and is increasingly used as currency. Bitcoin is a modern currency with increasing acceptance among merchants and consumers.

Bitcoin has often been referred to as the Internet of money. Although it is not without its criticisms – including that it is not a fiat currency, it is intangible and unregulated, holds no intrinsic value, is insecure, and is volatile – many of these criticisms are overblown or outright specious. Bitcoin should rightfully be held under intense scrutiny, as any novel technology should, especially one that is an altogether disruptive mode of transacting commerce. However Bitcoin is increasingly used to pay for goods and services. It offers a safe, fast, reliable, cheap and effective means to transfer payment. The IRS ought to treat Bitcoin in the manner it is increasingly used – as currency.



## **DISCUSSION**

### **I. INTRODUCTION**

Bitcoin, a virtual currency created in 2009 by an individual or group using the alias Satoshi Nakamoto, is based on a decentralized peer-to-peer system. Transactions are made with no intermediary. There are no banks involved, little to no transaction fees and transactions are almost instantaneous. Transactions are verified by network nodes, and the network uses a public ledger called the block chain to record transactions. There is no central repository or administrator. The US Treasury categorizes it as a decentralized virtual currency.<sup>3</sup>

As public acceptance increases, so too does the number of merchants willing to accept Bitcoin as a form of payment. But even though the general public is slowly embracing Bitcoin as a form of payment (thus giving it characteristics of a currency), public officials continue to struggle with the question of whether Bitcoin is a currency, and therefore subject to appropriate currency regulations, or if it is simply property, making transactions in Bitcoin more akin to barter.

### **II. BITCOIN IS PROPERTY...**

#### **A. THE CURRENT POSITION**

The current position of the Internal Revenue Service, outlined in Notice 2014-21, is that Bitcoin is property. Notice 2014-21 declared that for tax purposes Bitcoin and other virtual currencies are property, like any other capital asset, and not currency. This allows accrued long-term gains and losses to be taxed at more favorable applicable capital gains rates rather than ordinary income rates.<sup>4</sup>

Due to Bitcoin's increase in value over time, this treatment may appear to favor taxpayers. But it presents a multitude of record-keeping and

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<sup>3</sup>Statement of Jennifer Shasky Calvery, Director Financial Crimes Enforcement Network United States Department of the Treasury before the United States Senate Committee on Banking, Housing, and Urban Affairs Subcommittee on National Security and International Trade and Finance Subcommittee on Economic Policy. [http://www.fincen.gov/news\\_room/testimony/html/20131119.html](http://www.fincen.gov/news_room/testimony/html/20131119.html) Financial Crimes Enforcement Network. 19 November 2013. Accessed February 15, 2015.

<sup>4</sup>"BitBeat: IRS Calls Bitcoin 'Property,' Not Currency"

<http://blogs.wsj.com/moneybeat/2014/03/25/bitbeat-irs-calls-Bitcoin-property-not-currency/>



enforcement challenges, and undermines its created use as a transactional currency. It creates a substantial burden on Bitcoin users by requiring them to keep a record of every purchase made and to perform burdensome calculations accounting for the changing value of a Bitcoin. More importantly, it requires consumers, businesses and service providers to maneuver through complex and unclear tax reporting requirements. Finally, it will necessitate more clarifications from the Internal Revenue Service, further burdening an agency whose limited resources are already under considerable strain dealing with the Affordable Care Act. Such constraints will only serve to limit the growth and usage of Bitcoin.

## **B. LIMITATIONS OF THE PROPERTY ARGUMENT**

Arbitrarily declaring – as the IRS has – that Bitcoin is property ignores several significant issues that can have potential negative impacts on taxpayers, the government or both. As a result, it can operate to limit Bitcoin's growth. In no particular order, some of the challenges of presented by a Bitcoin-as-property policy include:

### **i. RECOGNIZING CAPITAL GAINS AND LOSSES**

The value of Bitcoin, while generally increasing, can and has been volatile. It is not unusual for speculators to incur large gains or losses in value over relatively short periods of time. However, unlike foreign currency traders, who can also see such swings in value, Bitcoin traders can lose twice – once in the decline in value, and again at tax time. Current tax law allows for taxation of the full amount of any capital gain, but capital losses are limited to capital gains plus \$3,000. (26 U.S.C. §1211(b)). As a result, large losses are carried forward, often for years on end.

### **ii. RECORD-KEEPING**

Cost basis is difficult to calculate, especially for active traders who may make dozens, if not hundreds, of trades. Part of the problem is the fact that the fair market value of Bitcoin has varied widely between exchanges (as much as 20%, and, as recently as 2013, up to 100% on some days). This variance exists because there is no accepted common Bitcoin trading platform as of yet, although a few primary services have garnered increasing support in the United States, namely Coinbase and Circle.

Further complicating matters is the existence of a myriad of secondary markets. In addition to buying Bitcoin on an exchange,

participants can purchase Bitcoin through local hobbyist meetings, transactions with friends, or even through various neighborhood merchants. While large exchanges may have systems for tracking value and transactions, many of these secondary sources are not likely to have such systems, leading to problems with tax reporting capabilities (for themselves or for the purchaser) and cost basis.

### **iii. PRICE MANIPULATION**

Treating Bitcoin as property also allows taxpayers to game the system. Currently, the IRS requires taxpayers to report the fair market value on the date currency was received but – unlike the current situation with stock trading – there is no third party reporting requirements. Consequently, a taxpayer can determine cost basis by using values from an exchange which consistently reports a high value over one which is consistently lower. Provided the taxpayer uses a reasonable manner which is consistently applied, the IRS is unlikely to challenge the value. In addition, the existence of multiple secondary sources means that there is no way to ensure consistent reporting from one party to the next. For example, there is no way to ensure that the fair market value reported by the seller will serve as the cost basis for the buyer. It would not be unexpected to see two parties using a different cost basis for the same transaction, with each party using the basis that most favors its position. Traders can also manipulate price by choosing the accounting method (FIFO, LIFO, specific identification or average cost) which favors them, thereby affecting calculations of gains.<sup>5</sup>

### **iv. OTHER ISSUES**

Along with property treatment comes the wash-sale rule. Under that rule, most commonly invoked in stock transactions, the purchase of the same or substantially similar property within a 30-day window before or after a transaction serves to eliminate the recognition of capital losses on that transaction (but not gains, which are taxed fully; the amount of loss is added to the basis of the property, thereby deferring recognition). The point of the wash-sale rule is to eliminate the creation of artificial losses via churning, which is a legitimate concern in the stock context. However, this concern does not translate to the Bitcoin realm. Stocks are not generally (or ever) used as a mode of payment. On the other hand a mode of payment is

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<sup>5</sup> This method is more limited, however, since a change in accounting method would require approval of the Commissioner.

the *raison d'être* for Bitcoin. Applying the wash-sale rule to Bitcoin will be difficult to enforce and increase the record-keeping burdens of all parties.

Despite these issues, the IRS stands by its position. Keith Aquiri, one of the principal drafters of the Notice, recently stated that the Bitcoin-as-property approach *will not* hinder Bitcoin's use on a daily basis for purchases. In an interview with Moneybeat, Mr. Aquiri stated, "I don't think they [Bitcoin users] have to worry ... [i]f the digital currency isn't being held as an investment ... it won't be subject to property taxes. It all depends upon your intent in holding onto the Bitcoin."<sup>6</sup> Taken to its logical conclusion, anyone who holds Bitcoin for any length of time can be considered an investor under the IRS guidelines, since 'intent' is inherently subjective and difficult to prove in practice. As a result, the Notice acts to discourage the use of Bitcoin "wallets." In practice, however, Bitcoin "wallets" are as commonplace as an actual wallet (albeit filled with Bitcoin instead of dollars).<sup>7</sup> Usage of Bitcoin wallets is expected to rise, making resolution of this problem important.

In fact, the current IRS position *will* inhibit the use of Bitcoin as a medium of transaction. As Mr. Aquiri points out, capital gains and losses will depend on whether a "virtual currency is a capital asset in the hands of a taxpayer."<sup>8</sup> But without a clear way for a consumer to indicate that Bitcoin held in a virtual wallet is a non-capital asset, and with 'intent' being a subjective determination, it is likely that the IRS will take the position that *any* Bitcoin kept in a virtual wallet is an investment, and therefore a capital asset. Consequently, every time a purchase is made from the Bitcoin wallet, the taxpayer will have to determine whether a capital gain or loss results. This will only serve to deter Bitcoin transactions and hinder its use as a medium of transaction.

Additionally, the Notice conflicts with the treatment of Bitcoin by other agencies. For example, prior to the Notice, the Financial Crimes Enforcement Network acknowledged virtual currencies like Bitcoin are fundamentally different than dollars. In the FCEN's view, companies exchanging Bitcoins for dollars can be regulated as money transmitters. This

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<sup>6</sup> Bitbeat: IRS calls Bitcoin 'property,' not currency, Wall Street Journal Moneybeat, March 25, 2014. Last accessed March 20, 2015

<sup>7</sup> As of March 13, 2015, Blockchain, just one of many providers of Bitcoin wallets, had issued over three million "wallets" up from two million on August 11, 2014.

<sup>8</sup> *Ibid.*

inconsistency in treatment has frustrated the Bitcoin industry.<sup>9</sup>

### III. ... BUT IT SHOULD BE TREATED AS FOREIGN CURRENCY

#### A. BITCOIN IS A MODERN CURRENCY

The creators of Bitcoin recognized that in today's modern marketplace, transactions increasingly occur across national borders and involve multiple currencies, whose relational values can fluctuate wildly. The theory was to develop a currency which would facilitate efficient transactions and eliminate the need for trust in third parties (in this case, governments whose actions can directly or indirectly affect its currency) to sustain its value.<sup>10</sup> Bitcoin is that currency. Of course, virtuality is one reason why Bitcoin has come under fire, with critics citing its intangible, virtual-only existence as an explanation why it cannot be a currency. However, such arguments are mere red herrings; since 2000, noncash – virtual – transactions have increased sixty-nine percent (69%). Debit card and ACH, (Automated Clearing House) transactions represented eighty-five percent (85%) of noncash transactions in 2012, up from forty-two percent (42%) in 2000, indicating a clear shift away from the use of hard currency for even the most basic of transactions.

Where trends go, merchants follow: Overstock.com, Dell, Expedia, Zappos, and Microsoft<sup>11</sup> are just a few of the merchants who have recognized market forces and now accept Bitcoin as a means of payment by customers. In addition, PayPal recently announced a partnership with Bitcoin processors which will allow merchants to accept Bitcoin payments via PayPal.<sup>12</sup> And Google is reportedly working with mobile payments processor Square to develop a new system that would accept Bitcoin.<sup>13</sup>

<sup>9</sup> Bitcoin Currency Use Impeded by IRS Property Treatment, March 26, 2013, <http://www.bloomberg.com/news/articles/2014-03-26/Bitcoin-currency-use-impeded-by-irs-property-treatment>. Accessed on February 24, 2015.

<sup>10</sup> Szabo, Nick. "Bit Gold". From the blog *Unenumerated*. Retrieved from <http://www.webcitation.org/61sMGP11i> (Archived from the original on 9-22-2011). Last viewed March 13, 2015.

<sup>11</sup> Businesses That Accept Bitcoin. <http://www.panture.com/businesses-that-accept-Bitcoin/>. Accessed February 24, 2015.

<sup>12</sup> Paypal now lets shops accept Bitcoin. September 26, 2014. <http://money.cnn.com/2014/09/26/technology/paypal-Bitcoin/>. Accessed February 24, 2015.

<sup>13</sup> Bitcoin Price Rallies on Google and Square BTC Payment System News. February 18, 2015. <http://cointelegraph.com/news/113514/Bitcoin-price-rallies-on-google-and-square-btc-payment-system-news>. Last viewed March 13, 2015.

- talk  
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cap. loss

These developments involving large, market moving merchants are necessary first steps toward acceptance by the markets as a whole, and foreshadow increasing use by individuals and businesses.

Bitcoin's increasing acceptance among merchants and consumers underlines the need to treat Bitcoin as a currency and not as property. Such treatment would, in turn, act to increase the use of Bitcoin as a medium of exchange, and offset some of the current criticisms of Bitcoin discussed below. Moreover, treating Bitcoin as a currency would remove pure investors from the market. Generally speaking, under both FAS 52 and 26 U.S.C. §988, foreign currency transaction losses (that is, the loss of purchasing power due to a change in value from when a currency is acquired to when it is spent) are treated as ordinary income or loss, as are foreign currency translation losses (or the loss incurred in translating a currency into U.S. dollars) though capital treatment can be elected in certain instances. Since the majority of transactions using Bitcoin would result in ordinary income treatment under the currency view, investors – who seek advantageous long-term tax positions – would tend to leave the market.

## **B. CRITICISMS OF BITCOIN AS CURRENCY**

Although the IRS has declared Bitcoin as property, they are not alone in viewing Bitcoin with skepticism. However, the IRS has come under fire for its position. For example, many consumer advocates have called the guidance with respect to reporting requirements inappropriate, and argued that it could dissuade some from using the currency. One such advocate, the Tax Foundation, stated that “the IRS sees Bitcoin as something that people buy and hold, hoping it will go up in value. They completely miss the primary use of Bitcoin as a currency for both transactions and wages. The tax treatment and compliance requirements as part of this notice are inappropriate for that usage of virtual currencies.”<sup>14</sup>

As short-sighted as the current IRS position may be, it is hardly the only criticism aimed squarely at Bitcoin. There are a number of other arguments against Bitcoin as a currency. For example, Bitcoin's detractors often point out that it is not a fiat currency; that it is intangible, and unregulated; that it has no intrinsic value; that it is insecure; and that it is too

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<sup>14</sup> IRS Says Bitcoin to Be Taxed As Gains; New Rule is Retroactive, March 28, 2014, <http://taxfoundation.org/blog/irs-says-Bitcoin-be-taxed-gains-new-rule-retroactive>, accessed March 8, 2015.

volatile to be a currency. Closer examination reveals each of these arguments to be flawed and as equally short-sighted and unwarranted as the IRS' position.

i. **IT IS NOT A FIAT CURRENCY.**

Of the arguments often trotted out against Bitcoin is that it is not a fiat currency (i.e., one supported by government regulation or law, as is the case with all other currencies). Since there is no government support, the argument goes, it cannot be accepted as a medium of exchange. These arguments have been bolstered by the general reluctance on the part of governments to take an active position on Bitcoin. Most governments have been hesitant to issue any kind of public statements about Bitcoin in general. Of those few (including the UK) who have, most do not accept Bitcoin as a currency, preferring instead to treat it as property. One government which has bucked this trend is Germany, which recognized Bitcoin as a "currency unit" or "unit of account" and "private money" for legal and tax purposes.

Still, relying simply on the argument that a currency must be supported by government regulation to be a 'real' currency is a dubious argument at best. For centuries, currencies were not supported by government regulation at all, but the value of a commodity, with gold being the most commonly cited commodity. Even the United States relied upon the so-called 'gold standard' until 1972. Of course, change is never easy – there were calls to take the United States off the 'gold standard' as early as 1901 – so it should come as no surprise there is resistance to recognizing a new medium of exchange.

ii. **BITCOIN IS INTANGIBLE AND UNREGULATED.**

Intangibility – as shown above – cannot logically be used as an argument against recognition as a currency. While it may be nice to be able to hold a unit of currency in one's hand, the current trend toward the use of digital payments shows that that is not a primary concern for consumers or businesses today.<sup>15</sup>

On the other hand, it is true that Bitcoin is currently an unregulated peer-to-peer digital currency. Its "peer" currencies, by contrast,

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<sup>15</sup> In fact, residents of the UK – which long ago eliminated £1 and £2 notes – frequently complain about the weight of their coin replacements.

are often heavily regulated. This lack of regulation has been successfully used by its detractors and currently hinders the acceptance of Bitcoin as a valid currency unit.<sup>16</sup> However, this lack of regulation is at least partially due to its infrequency of use. As its usage increases, there will no doubt be regulations close behind.

### iii. BITCOIN HAS NO INTRINSIC VALUE.

Another common criticism of Bitcoin is that it holds no intrinsic value. In this regard it is unfavorably compared to commodity and fiat currencies, both of which hold intrinsic value, the former due to scarcity and the latter due to government support.

Proponents of Bitcoin argue that its intrinsic value is based in the cryptographic system and technology that regulates the discovery and distribution of Bitcoin. They argue that this technology is mathematically sound and it is that which gives the currency its intrinsic value.<sup>17</sup> Although this argument is subject to debate, there is no doubt that public confidence in Bitcoin will serve to provide it with intrinsic value.

In addition, the supply of Bitcoin is limited, which should also provide intrinsic value. Bitcoin's mathematically-based software slowly releases new amounts of money at a fixed rate, and caps the total number of Bitcoin at 21 million.<sup>18</sup> Because it is not a fiat currency, this supply cannot be altered by government action. It is a politically independent medium of exchange that has the potential reach of the Internet, which exceeds three billion people.<sup>19</sup>

Although capped, Bitcoin has almost infinite divisibility. Its computational verifiability makes it more attractive as currency. Ownership can be verified and transferred instantly and there are very low transaction fees involved in exchange. The public ledger additionally provides veracity to Bitcoin. Together, these factors create more certainty and trust as to Bitcoin's value.

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<sup>16</sup> Germany recognizes Bitcoin as 'private money' August 18, 2013, <http://rt.com/news/Bitcoin-germany-recognize-currency-641/>. Last viewed March 13, 2015.

<sup>17</sup> Bitcoin and the Intrinsic Value argument, <http://vincesamios.com/Bitcoins/Bitcoin-and-the-intrinsic-value-argument>. Accessed March 10, 2015

<sup>18</sup> Controlled Supply, [https://en.Bitcoin.it/wiki/Controlled\\_supply](https://en.Bitcoin.it/wiki/Controlled_supply). Accessed March 9, 2015.

<sup>19</sup> Number of Internet Users, <http://www.internetlivestats.com/internet-users/>. Accessed March 6, 2015.



#### iv. BITCOIN IS INSECURE.

In the digital age, security is an overarching concern, and there is some concern over vulnerability related to holding Bitcoin. This is no doubt related to the Mt. Gox hack, as well as other well-publicized attacks on retailer's digital systems.

Prior to the hack, Mt. Gox, was a large exchange that by 2013 handled 70% of all Bitcoin transactions. Mt. Gox suspended trading in February 2014, after 850,000 Bitcoins, with an approximate value of \$450 million, were lost..<sup>20</sup> It is important to note, however, that this only affected customers holding Bitcoin on their Mt. Gox accounts; it had no effect on people who had already transferred their holdings to their personal Bitcoin wallets.

Although it is important, security is not an issue unique to Bitcoin. As Treasury Secretary Jack Lew recently indicated, there have been hundreds of cyberattacks against financial institutions in recent years.<sup>21</sup> Even major retailers, such as Target, have not been immune to hackers.

In this regard, Bitcoin has one thing in common with all other currencies – it is only as safe as its holder makes it. Just as a careless individual can lose their physical wallet to a pickpocket, a careless Bitcoin user can lose their Bitcoin wallet to a digital thief. And while an individual can protect his physical wallet by moving it from a back pocket to a front one, a Bitcoin holder can protect their Bitcoin simply by storing their holdings in a personal Bitcoin wallet instead of on an online exchange. Of course, like anything else, services exist to make the wallet even more secure, should the Bitcoin holder elect to take advantage of them. For example, one can utilize a service which takes their wallet offline and encrypts and password-protects it. This makes Bitcoin holdings no longer at risk of failure of an exchange and provides arguably better security than any physical wallet. Again, as with any other digital storage medium, the Bitcoin Foundation and Bitcoin community will continue to evolve and to provide ever-increasing security measures.

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<sup>20</sup> Mt. Gox Seeks Bankruptcy After \$480 Million Bitcoin Loss, Carter Dougherty and Grace Huang, Feb. 28, 2014, <http://www.bloomberg.com/news/2014-02-28/mt-gox-exchange-files-for-bankruptcy.html>. Accessed on January 25, 2015.

<sup>21</sup> Lew: cyberattacks aim to disrupt U.S. financial system. <http://www.reuters.com/article/2014/07/16/us-usa-jacklewis/idUSKBN0FL1FK20140716>



## **v. BITCOIN IS VOLATILE.**

Not surprisingly, Bitcoin's price has fluctuated in dramatic fashion since the first transaction on January 12, 2009.<sup>22</sup> This is to be expected with a completely novel form of currency, as speculators enter the market ahead of users. However, Bitcoin volatility has decreased greatly in recent years.<sup>23</sup> Based on a rolling 30 day time-frame, Bitcoin volatility on April 19, 2013 was 14.42%. Just over a year later, on April 25, 2014, Bitcoin volatility was down to 7.43%. In recent months, volatility has decreased dramatically, and is currently estimated at only 3.55% in the past 30 days<sup>24</sup> as the price has remained stable at just below \$300 per Bitcoin.<sup>25</sup>

Volatility is not limited to Bitcoin; fiat currencies can be equally, if not more, volatile as Bitcoin. For example, the Swiss franc jumped thirty percent in value in just minutes in January 2015. Over the past year, the Russian ruble has fallen forty percent against the dollar, during the same period, the Canadian and Australian dollar dropped to six-year lows.<sup>26</sup> While these may be recent developments, they are hardly original. Brazil's currency was extremely volatile in the late 1980s as the country went through hyperinflation. Mexico devalued its peso by half in the late 1990s. And some currencies – such as the Turkish Lira – have traded at almost unfathomable rates; at one time, the Turkish Lira traded at a rate of five hundred thousand (500,000) to the dollar! Volatility, then, is of limited use as a criticism, and will continue to decrease as mainstream acceptance increases.

Like any currency, Bitcoin is subject to inflation or deflation as traders hold or sell blocks of the currency. However, as Bitcoin gains mainstream acceptance and more individuals hold Bitcoin, traders will have less of an impact on price. Similarly, while one large holder can currently impact the value of Bitcoin, this will become less likely as the number of holders increases. The market capitalization of Bitcoin is already over \$4 billion<sup>27</sup> and is expected to continue to grow.

Although one could argue that Bitcoin's 21 million cap may

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22 History – Bitcoin. <https://en.Bitcoin.it/wiki/History>. Accessed on January 25, 2015.

23 See Exhibit B

24 The Bitcoin Volatility Index. <https://btcvol.info>. Accessed on March 12, 2015.

25 See Exhibit C

26 Why currency volatility has got worse. February 3, 2015. <http://www.economist.com/blogs/economist-explains/2015/02/economist-explains-2>. Accessed March 11, 2015.

27 Crypto-Currency Market Capitalizations. <http://coinmarketcap.com>. Accessed March 13, 2015.

subject Bitcoin to deflation if it becomes widely used (thereby creating an incentive to save<sup>28</sup>) this is actually a specious argument.. Bitcoin transactions can be denominated into small sub-units of up to eight decimal places. The Bitcoin Project itself states that Bitcoin is not designed to be a deflationary currency, and that it is more accurate to say it is intended to inflate in its early years, and become stable later on.<sup>29</sup>

#### IV. CONCLUSION

The financial system has shifted to electronic banking; Consumers and merchants are increasingly using digital forms of payment for transactions. Bitcoin is just another step in this natural progression.

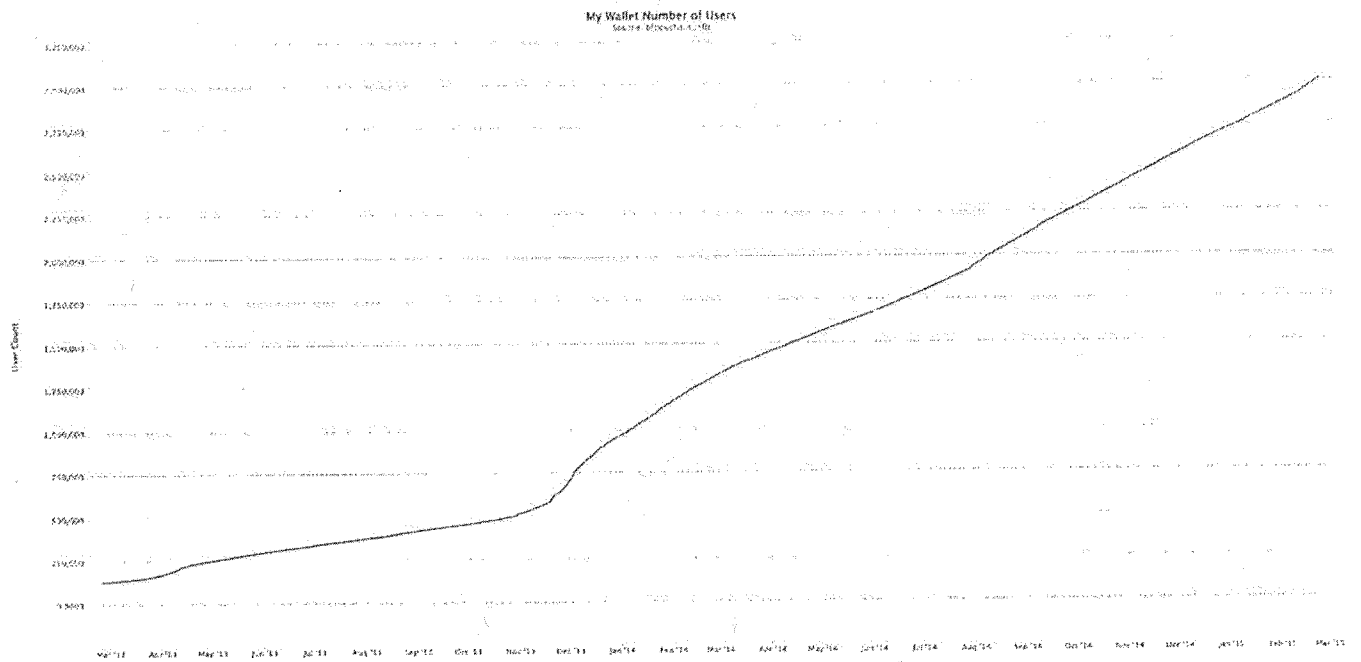
By treating Bitcoin as property, the Internal Revenue Service has unintentionally hindered its intended purpose as a transactional currency, and created burdensome obstacles to its use. While flies in the face of Bitcoin's intended purpose as a medium for exchange, the rate adoption of Bitcoin by consumers and merchants, suggests that the IRS' position will only serve to slow Bitcoin's acceptance as a currency. By treating Bitcoin as a currency, and not property, the IRS will facilitate its broad acceptance as a currency, and allow the progression of modern banking to continue.

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28 Deflation, [https://en.Bitcoin.it/wiki/Controlled\\_supply#Deflation](https://en.Bitcoin.it/wiki/Controlled_supply#Deflation). Accessed February 24, 2015.

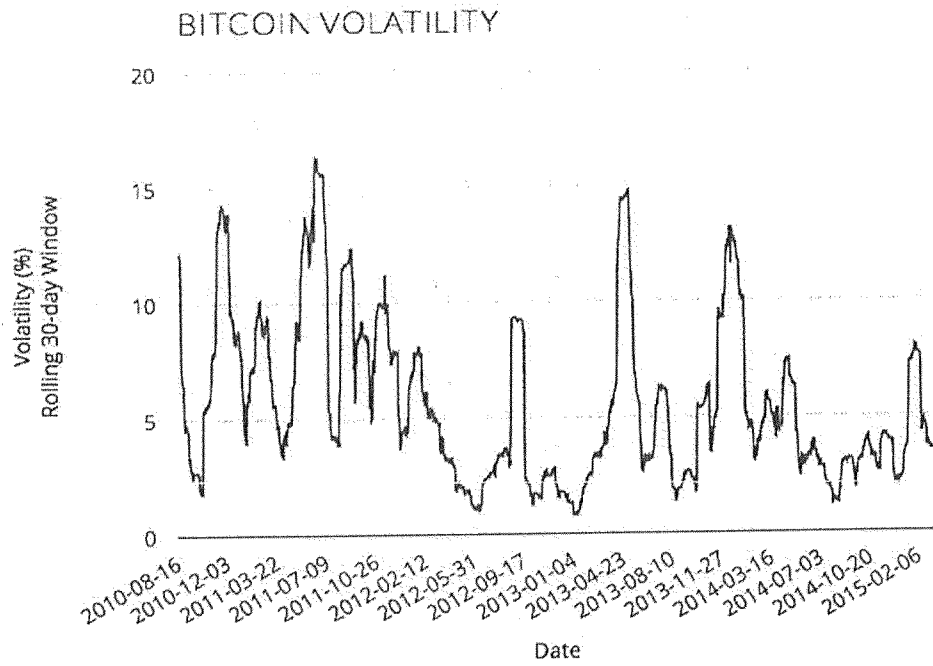
29 Bitcoin FAQ, <https://Bitcoin.org/en/faq>. Accessed March 3, 2015.

## Exhibit A

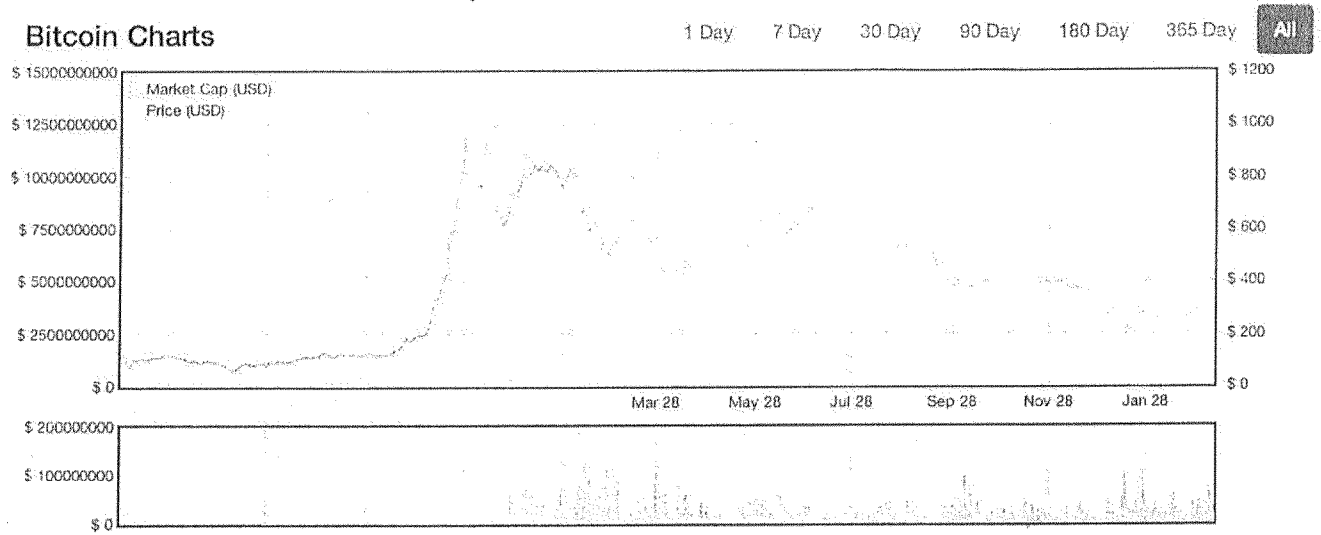


**Exhibit B**

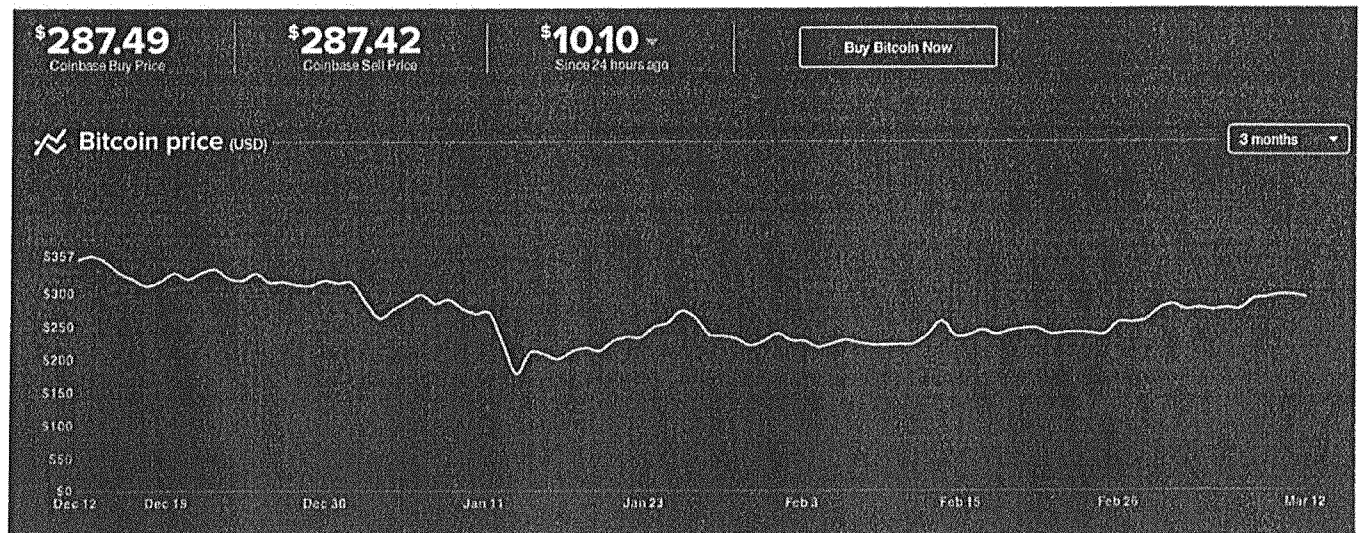
# BITCOIN VOLATILITY TIME SERIES



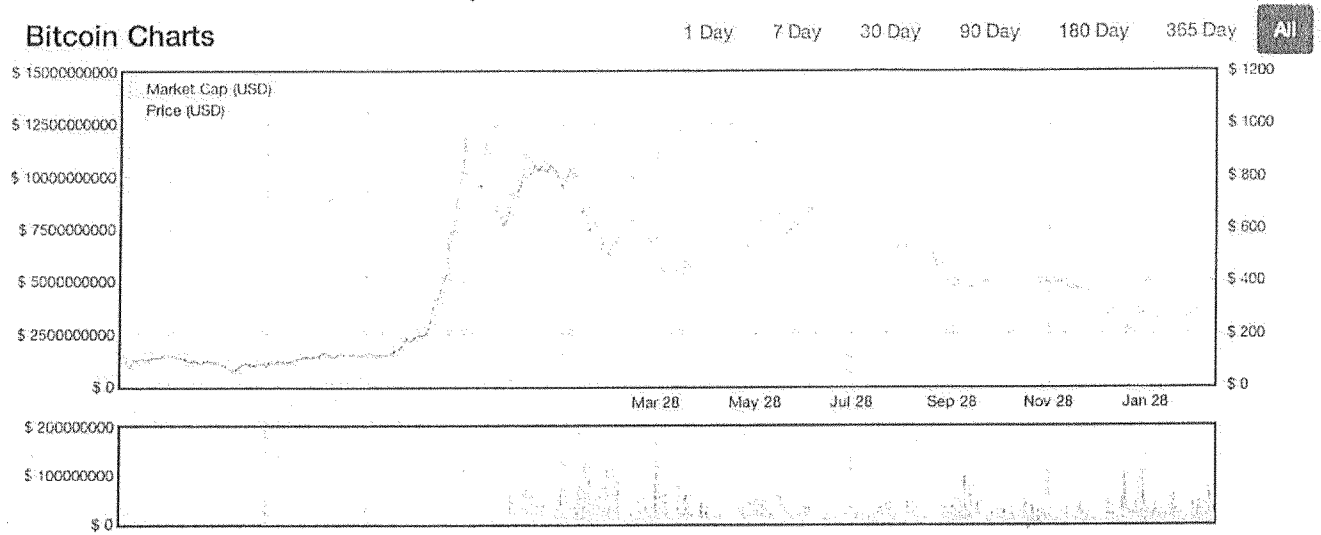
All Time Bitcoin Price Chart (source: <http://www.coindesk.com/price/>)



Three Month Price Chart (source: [coinbase.com/charts](https://coinbase.com/charts))



## All Time Bitcoin Price Chart (source: <http://www.coindesk.com/price/>)



## Three Month Price Chart (source: [coinbase.com/charts](https://coinbase.com/charts))

